

Fair Housing for Maintenance



Crucial points the maintenance team needs to prevent lawsuits

Fair Housing for Maintenance

Welcome!

In this overview course, we will review the housing guidelines set forth by the Federal Fair Housing Act and ways to comply with this law.

What is fair housing?

What is the intended purpose of the Fair Housing Law?

What national tragedy sparked the signing of the **Civil Rights Act**, of which the **Federal Fair Housing Act** was a part?

The four initial protected classes in 1968 were:

1. _____

2. _____

3. _____

4. _____

In 1974, another class was added:

5. _____

On September 13, 1988, the law was further amended by adding two additional classes, to make a total of 7:

6. _____

7. _____

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To review, what are the seven protected classes covered under the Federal Fair Housing law?

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

What is a fun phrase to help you remember the seven protected classes?

R _____

C _____

R _____

N _____

S _____

H _____

F _____

Which is the most important of these protected classes?

In order to comply, what is a good rule of thumb to use?

What are three key words to remember?

1. _____

2. _____

3. _____

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Define the terms

RACE:

RELIGION:

COLOR:

NATIONAL ORIGIN:

SEX:

HANDICAP STATUS:

FAMILIAL STATUS:

Handicap Status

A Handicap, according to the law, is anything that restricts a major life activity. This includes physical as well as mental handicaps. This has also been broadened to include terminal illnesses such as cancer and AIDS, and persons in recovery from alcohol or drug addiction.

Two phrases to keep in mind to comply with the Handicap Status provision:

- Reasonable _____
- Reasonable _____

What is the definition of Reasonable Accommodation?

What are some examples of Reasonable Accommodations?

What is the definition of Reasonable Modification?

What are some examples of Reasonable Modifications?

When asked for a Reasonable Modification

Remember, a reasonable modification is some sort of physical change to the community or individual unit. Whenever a maintenance employee is approached regarding a request for a reasonable modification, they should be referred to the office staff. You may also say:

This tells the resident or prospect that you will be working to find the right solution to their request, without agreeing to specifics. You may also tell the resident a doctor's note will be required in order to accommodate them.

The Costs

For the most part, the government has been vague on defining the word "reasonable". A good rule of thumb is anything that won't put an unreasonable burden on the landlord would be considered a "reasonable" expense and would be incurred by the landlord. This could be anywhere from a few hundred to a few thousand dollars. Your management company will probably consult a real estate attorney before making a decision.

A resident has the right to make nearly any alteration **at their expense** if it can be shown to improve their quality of life or enjoyment of the community. The landlord does have the right to require the apartment be returned to original condition, and can stipulate who does the repairs.

Handicap Status and New Construction

Properties constructed after **March of 1991** must meet certain requirements according to the law. Some of these are:

- Public and common areas must be _____.
- Doors and hallways must be _____ to accommodate wheelchairs.
- There must be an accessible _____ through and into the unit.
- All _____, _____, _____ must be accessible.
- Walls in bath must be reinforced for _____ installation.
- Kitchens and bathrooms must be _____ accessible.

Handicap Status

Important Points to remember:

- ❑ A property does not have to hold its handicap accessible units for use only by handicapped persons.
- ❑ A handicapped person may choose any apartment that is available in the community, and has the right to have that unit “reasonably modified” should they so desire.
- ❑ Wheelchair residents do not have to choose apartments only on the first floor, even if there are not elevators in your community. However, adding an elevator or lift would not be considered a “reasonable modification” and would not have to be paid for by the property owner.
- ❑ Service animals are not to be treated as pets under your lease – meaning no pet agreement, pet deposit or pet rent is due.
- ❑ Any animal can be considered a service animal as long as a doctor’s note is included in your file, which merely says that the animal is required – the note should **NOT** state the illness or handicap of the resident.

People with service animals are required to meet one regulation of your community’s pet policy – cleaning up the pet’s waste. However, if the person with the service animal was blind, it would be a **reasonable accommodation**, a change to a rule or policy, to have the staff pick up after that persons’ animal.

Familial Status

Unless a community qualifies as housing specifically for older persons, meaning retirement or assisted living, it may not discriminate based on Familial Status. That means a community may not discriminate against families with one or more children under age 18 living with:

- ❑ A parent
- ❑ A person who has legal custody of the child or children
- ❑ A designee of the parent or legal guardian
- ❑ Persons securing custody through adoption or other means

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This also means a community cannot reverse discriminate – choosing to rent to only families and not renting to single persons. This is why in some cities; one bedroom-only properties were built after 1988 to encourage the “single” lifestyle.

Problem questions can get maintenance workers into trouble with the Familial Status provision:

? How many kids do you have here?

? Who is living with you?

If you suspect that there are too many occupants in an apartment that you are servicing, the correct question you should be asking is:

? How many _____ are living in this apartment?

Remember your occupancy standards at all times! You cannot tell a resident that they have “too many kids to be in this apartment”. The resident may hear this and feel they have been discriminated against because of their familial status, or the fact that they have children. Remind people of the occupancy standards at your community and be sure to use the word “people” instead of adults or kids.

Rodeo Clowns Really Never Should Have Families...

What were those seven protected classes again?

1. **R** _____
2. **C** _____
3. **R** _____
4. **N** _____
5. **S** _____
6. **H** _____
7. **F** _____

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Local Laws

Local regulations can be even more restrictive than the federal fair housing law. If you look at the list of seven protected classes, you can likely think of another group or type of individual that would not be protected. Many cities and states have considered this and added additional classes to their laws.

Some of the more common protected classes added across the nation:

<i>Age</i>	<i>Military Discharge Status</i>	<i>Public Assistance</i>
<i>Sexual Orientation</i>	<i>Weight or Poor Health</i>	<i>Source of Income</i>
<i>Ancestry</i>	<i>Terminal Disease Status</i>	<i>Parental Status</i>
<i>Military Reservist Status</i>	<i>Place of Employment</i>	<i>Appalachian Origin</i>

Are there any additional protected classes in this state?

What about in this city or a neighboring municipality?

The important thing to remember is that these laws are being passed all of the time, by legislatures and city councils across the country. Be sure to read your local, state and national apartment publications to keep abreast of current laws.

! Discriminate against no one and you will always be in compliance!

Compliance with the Law

- ? Is it optional to comply? ***NO!***
- ? Can a maintenance employee be sued individually? ***YES***
- ? Could your company be sued also? ***YES***

What happens when HUD receives a complaint from someone alleging discrimination?

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How long does a person have to file a complaint with HUD alleging discrimination?

_____ year

How long does a person have to file a private, civil suit alleging discrimination?

_____ years

How many days does a property have to respond to a complaint? _____

It is important to do some internal research if you ever receive a complaint, so that your facts are straight and you can defend yourself in case the complaint goes to court or trial.

- Establish the relevant facts of the case
- Provide details that support your position
- Don't speculate or provide resident stats to investigators – it is a trick!
- Provide supporting references

If discriminatory practices are found from an investigation, damages will be assessed to the plaintiff (the person making the complaint). Both Actual and Punitive damages can be awarded.

What are “actual damages” ?

What are “punitive damages” ?

All of the following could be viewed as discriminatory by a resident or shopper:

- Refusing to service an apartment because of one of the residents protected criteria.
- Discrimination in policies or the speed or quality of maintenance performed.

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- Refusal to supply information.
- Not making reasonable accommodations or modifications.

How can you protect yourself?

- Proper _____.
- Written _____.
- Apply all standards to _____ residents without special favors to anyone.
- Have a _____ maintenance policy.
- Keep _____.
- Don't disclose _____.

Train everyone on your staff -- anyone who comes into contact with a resident! A maintenance supervisor is responsible for all maintenance workers – porters, housekeepers, painters, etc.

Proper Documentation

Why is it important to keep records and documentation of all of your interactions with prospects and current residents?

Keep all _____ requests for at least _____ years.

When you are adding a note to a file, what should it always include?

Current Residents

All fair housing standards apply to your current residents too! Always document any problem or interaction with current residents and keep a copy in their files.

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Make all repairs promptly for all residents – don't do special favors for one resident and not for another.

When prioritizing service requests, you should serve people in the order the request was called in – no other factor applies unless it is an actual emergency in the unit.

Your maintenance policy should have a written definition of what constitutes an _____ and what requests will be handled as standard.

Standard requests can be prioritized by _____ only.

Enforce your community rules consistently and fairly! Apply all rules to all residents.

Occupancy Standards

Your management company should have written occupancy standards printed in your offices. Maintenance employee's are on the front lines of a community's enforcement of occupancy standards, because leasing agents are rarely inside a resident's unit once they have moved in. That is why maintenance employees need to be aware of who is living in an apartment and keep management informed if occupancy standards are being broken.

?? What is your community's occupancy standard?

_____ persons per bedroom.

Two persons per bedroom – this is HUD's recommendation and is likely your standard as well. Certain apartment units break these standards – unusually large one bedrooms, or a unit marketed as a one bedroom with a study. If the study has a door to make it private, plus a window to serve as some sort of fire escape, HUD will likely consider it a bedroom, regardless of how you market it.

Occupancy standards are set for reasons of public health and safety. They are not there to unfairly force people to abide to a standard! Sometimes you may receive a complaint that your occupancy standards discriminate against a family's culture. This is not the case.

Resident Statistics

Don't volunteer resident information or comment about the race, religion, color, national origin, sex, familial status or handicap status of any person or group of residents at your community -- even when asked directly or indirectly by a prospect. Also, if you are asked for this information from a representative from HUD or a fair housing organization – they are trying to trick you! You cannot give this information out – regardless of who is asking the question.

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Be on the lookout for questions like:

- ❓ What kind of people live here?
- ❓ Are there a lot of families in this community?

Never tell a shopper “we have all sorts of people here.” What is the correct answer to a resident profile question?

Know the location of your office’s federal fair housing poster. If you have prospects that persistently ask you questions you cannot answer, refer them to the office or to the poster and explain that the law prohibits you from answering questions like that.

What is steering?

- Never suggest areas of a community that may be more suitable to families or singles.
- Only **point out** amenities, do not suggest use or avoidance.
- Mention all items, features and amenities to all residents – for instance don’t mention a “tot lot” only to families with children.

Shoppers / Testers

What is a shopper?

What are shoppers looking for?

Don’t encourage prospects to come back in the evening and drive around, “just to see for themselves.” This can be considered as encouraging discrimination by the prospect.

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Remember that a shopper could be a current resident of yours – even one you have had an ongoing relationship with! It doesn't matter who it is, treat everyone the same and you will stay out of trouble.

Protect Yourself

- ❑ Don't _____.
- ❑ Review _____ regularly for potential fair housing issues
- ❑ Establish a service policy that ensures _____
_____ are responded to in a timely manner
- ❑ Train all of your staff – anyone who comes in to contact with
_____ or _____.

Keep in mind these crucial points

- ❑ Always remember your occupancy standards
- ❑ Proper documentation
- ❑ Enforce rules and guidelines with existing residents
- ❑ Have a consistent maintenance process
- ❑ Keep all service requests and back-up documentation
- ❑ Never disclose stats and be on the lookout for shoppers!

Fair Housing Scenarios

You will each receive a typical scenario that anyone in maintenance could deal with any day. Look at the scenario and determine what the potential fair housing violation might be, how it could be avoided or fixed, and what the maintenance employee could have done differently.

FAIR HOUSING QUIZ

1. According to the Federal Fair Housing Law, it is illegal to discriminate on the basis of:

1. _____ 2. _____ 3. _____
4. _____ 5. _____ 6. _____
7. _____

2. It is acceptable to fix the dishwasher of a resident you like before the dishwasher of a resident you don't like.

TRUE FALSE

3. Your property may designate family and adult sections?

TRUE FALSE

4. You may not have a pool policy that sets different times for adults to use the pool when children cannot, for instance an "adult swim" time.

TRUE FALSE

5. A disabled person can make almost any change to the interior of an apartment at their expense.

TRUE FALSE

6. A prospect stops you when they are walking around the property. They have two children; you tell them that your property does not have a playground facility but is close to the city park. Could this be steering?

YES NO

7. A disabled person is allowed to lease an apartment with a Seeing Eye dog (even if over the property weight limit), but must put up a full pet deposit charged to other residents with pets?

TRUE FALSE

8. When completing a service request before having it filed, it is important to write down:

- A. What exactly was done in the unit
- B. The time and date of completion
- C. The maintenance employees name or initials
- D. All of the above

9. An individual can file a complaint with HUD up to one year after the alleged discriminatory housing practice occurs?

TRUE FALSE

10. Anyone who feels that they have been discriminated against can file a lawsuit in Federal Court and may receive actual and punitive damages?

TRUE FALSE

11. The Federal Fair Housing Law states that properties must make reasonable accommodations and modifications for individuals with the following disabilities except:

- A. Mental Retardation
- B. Physical Disorder
- C. An Individual with AIDS
- D. A current illegal user of a controlled substance

12. Which of the following employees should attend Fair Housing training?

- A. Housekeeping staff
- B. Leasing Consultants
- C. Maintenance Supervisors
- D. All of the above

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13. If a blind prospect with a 70 lb. service animal wants to rent an apartment in your community, but you do not allow pets over 20 lbs, you have the right to refuse rental to this person.
TRUE FALSE
14. Familial Status refers to a household that includes children less than 18 years of age.
TRUE FALSE
15. When asked, "What kind of people live here?" It is all right to respond by saying "we have professionals, families, couples – a little bit of everyone."
TRUE FALSE
16. All service requests are required to be kept on file for a minimum of one year.
TRUE FALSE
17. If a disabled individual requests that the carpet in their apartment be replaced with a carpet with lower pile or vinyl tile, the property is responsible for the cost of this modification.
TRUE FALSE DEPENDS
18. If a disabled individual requests that specific modifications are made to the interior of the apartment home, the property is responsible for all costs associated with these modifications.
TRUE FALSE DEPENDS
19. When talking with a prospect, you would want to tell them that lots of people just like them live at the community.
TRUE FALSE
20. In 1988, the Fair Housing law added two additional protected classes, Handicap Status and Familial Status.
TRUE FALSE
21. Your community's occupancy standards allow for two people per bedroom.
TRUE FALSE
22. A handicap is any physical or mental impairment that restricts a major life activity.
TRUE FALSE
23. If your community has specific apartment homes that are designed to be handicap accessible, you must hold these for prospects with disabilities.
TRUE FALSE
24. According to the Fair Housing Law, it is permissible to ask a resident how many children are living in the apartment home?
TRUE FALSE
25. A prospect in a wheelchair must choose a 1st floor apartment home if your community does not have elevators.
TRUE FALSE
26. It is perfectly acceptable to ignore a less important maintenance request if the resident is behind on their rent payments.
TRUE FALSE
27. When complying with fair housing laws, it is only important to comply with the Federal regulations since they are more important than state and local laws.
TRUE FALSE
28. A property must include a detailed description of any physical or mental impairment affecting a resident in that residents file.
TRUE FALSE

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29. A maintenance employee should ask to see a photo ID before providing lock-out services to a resident.

TRUE

FALSE

30. If a maintenance request is not completely filled out, it may be hard to defend against a possible lawsuit.

TRUE

FALSE

31. Maintenance employees are rarely the subject of fair housing lawsuits.

TRUE

FALSE



Need more? Would you like a list of resources in your area?
Feel free to contact me:

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