

Fair Housing

Reasonable Accommodations and Guidance for Housing Providers

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Fair Housing Center

Fair Housing Center History

- The Fair Housing Center was founded on the principles of community, tolerance, and justice
- Women of the Old West End Association and League of Women Voters established the organization to combat discriminatory housing practices and work to expand equal housing opportunities
- Since its founding in 1975, the Center has expanded housing opportunities for millions of people in America
- Investigated over 11,000 allegations of housing discrimination
- Recovered more than \$30 million in damages for victims

Fair Housing Center Mission

The Fair Housing Center is a civil rights agency dedicated to the elimination of housing discrimination and its effects on individuals and communities.

FAIR HOUSING

- The term “fair housing” means freedom of housing choice - the right and ability to choose where one wants to live. The term is often used interchangeably with the term “equal housing opportunity” suggesting that all persons must have equal access to housing opportunities.

Housing Discrimination

- **Housing discrimination** is defined as any attempt to prohibit or limit free choice in the housing process. All facets of the housing market are covered, including lending, appraisal, insurance, rental, sales and marketing. A person or entity who has violated a fair housing statute has committed housing discrimination.

Fair Housing Act

- Originally passed in April, 1968
- Gives government authority for enforcement
- Provides victims with protection and representation by the government

FHA - Purpose

- To provide for fair housing throughout the United States
- To ensure that no one will be discriminated against because they are a member of a protected class
- To end racial segregation: to develop “truly integrated and balanced living patterns”

Which fair housing laws apply to our programs?

- The Fair Housing Act and the state fair housing law cover most housing rental properties, including non-profit housing, shelters and transitional housing programs

Fair housing laws also apply to any other person or entity whose actions could “make housing unavailable.” This means a wide

- organizations offering rental assistance, such as vouchers or subsidies
- agencies operating housing counseling and placement programs
- temporary or longer-term shelters
- clean and sober housing
- transitional housing
- motels that function as primary housing rather than vacation lodging
- All such programs are prohibited from discriminating on the basis of protected class and are required to follow fair housing laws

Protected Classes

- Protected classes are classifications of groups protected by fair housing statutes
- Everyone is a member of a protected class

Federal Protected Classes

- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Disability

Additional Protected Classes

State of Ohio

- Military Status
- Age (Lending)

City of Toledo

- Sexual Orientation
(Human Rights Ordinance)

Disability

- A physical or mental impairment which “substantially limits one or more major life activities.” “Major life activities” are functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- A person who currently has a disability
- A person who has a record of having a disability
- A person who is regarded as having a disability
- A person who used to have a disability
- A person who is associated with someone who has a disability

Examples of Disabilities

- Physiological disorder or condition
- Cosmetic disfigurement
- Anatomical loss
- Neurological
- Musculoskeletal
- Special sense organs
- Cardiovascular
- Reproductive
- Digestive
- Genito-urinary
- Hemic/lymphatic
- Skin
- Endocrine

Examples of Disabilities

- Mental retardation
- Organic brain syndrome
- Emotional or mental illness
- Learning disabilities
- Hearing or eye impairments
- Orthopedic condition
- Cerebral Palsy
- Autism
- Epilepsy
- Muscular Dystrophy
- Cancer
- Diabetes
- Human Immunodeficiency Virus
- Alcoholism

Disability Provisions

- Reasonable modifications
 - >> Structural changes
 - >> Afford enjoyment of the dwelling
 - >> Housing owner may pay for changes
 - >> Changes can be required to comply with the laws
- Reasonable accommodations
 - >> Changes in policies, rules, practices, or services
 - >> Afford equal opportunity to use and enjoy dwelling
 - >> Includes public and common use areas

A request for a reasonable accommodation should be granted if the following conditions are met:

- the person requesting it has a disability,
- the requested accommodation is necessary to afford the person an equal opportunity to use and enjoy the dwelling and related services,
- complying with the request poses neither an undue administrative nor financial burden on the housing provider or program, and
- complying with the request will not fundamentally alter the nature of the program

Denial of Reasonable Accommodation Request

- A proposed reasonable accommodation may only be denied if it imposes an “undue burden” or “fundamentally alters the nature of the program”
- Failure to reply to a request for a reasonable accommodation may be considered denial
- Housing provider and individual requesting reasonable accommodation should enter into interactive dialogue

Service animals/assistance animals

- After receiving a request for reasonable accommodations, the housing provider must consider the following:
- Does the person seeking to use and live with the animal have a disability?
- Does the person making the request have a disability-related need for an assistance animal?
- If the answer is “no” to either of the two questions , the FH Act and Section 504 does not require the housing provider modification to its “no pet” policy. Conversely, if the answer is “yes” to the two questions, the housing provider must make reasonable accommodation

Criminal Records

- If an applicant with a criminal record requests that a policy barring applicants with criminal records be waived as a reasonable accommodation because his or her criminal act was related to his or her disability, the housing provider should consider the request

Poor Tenant History

- If the applicant requests that the poor tenant history be overlooked as a reasonable accommodation because it was caused by disability-related behavior and can provide a doctor's letter to this effect, the request should be granted

Refusal to Perform Required Chores

- If a resident refuses to participate in a required chore because a physical or mental disability makes the activity impossible or extremely difficult or painful, the shelter provider should suggest an alternative chore

Job Readiness

- Generally, a transitional housing program with a job-readiness component can, as a reasonable accommodation, allow a resident whose disability precludes work to substitute other activities for job-readiness activities. Since the main goal of most transitional programs is to prepare residents for permanent housing, applying for SSI and looking for low-income permanent housing are analogous to and may be substituted for job-readiness activities

Alcohol and/or Drug Dependency

- Alcohol dependence has been defined as a disability and is therefore a prohibited basis for discrimination
- Drug dependence has not been classified as a disability, but shelter or housing providers are encouraged to remain consistent in their treatment of residents diagnosed with these diseases
- Should use of alcohol and/or illegal drugs occur upon facility property, shelter or housing providers should consider holding the resident's bed while allowing the person to attend a rehab program, or allow the person to attend a day treatment program and keep his or her bed at night, as a reasonable accommodation
- If neither of these options is feasible, then neither is reasonable

Dry Facilities

- Alcohol and illegal drug use on provider property by persons not currently identified as alcohol and/or drug dependent should be considered as a program violation and at a minimum it is recommended that the person be referred for an assessment

Direct Threat Exception

- While fair housing laws generally protect people with disabilities from being evicted because of disability-related behavior, there is an exception to this rule when the resident's behavior threatens harm to or actually harms another person, or when a continued tenancy would cause substantial damage to the facility or the property of other tenants

Questions

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