



Fair Housing

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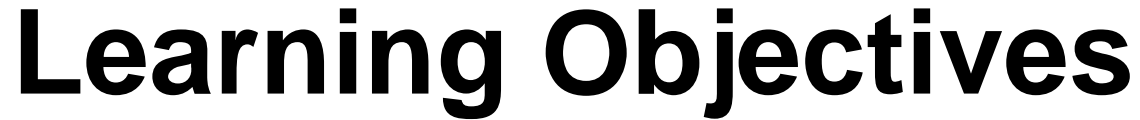
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Fair Housing Council of Oregon

- **Statewide Civil Rights organization**
- **Proactively promote housing justice, equity, and inclusion**
- **Education, public policy, and enforcement of Fair Housing Law**





- **Learn fair housing basics**
- **Discuss source of income discrimination**
- **Review disability and reasonable accommodation**
- **Disparate impact, and familial status protections under FHA.**





Fair Housing Laws

- Civil rights laws promoting “equal access” to housing
- Makes it illegal for housing providers to **discriminate** against certain groups
- Different than landlord-tenant law



Fair Housing Discrimination

Treating a person differently in any housing transaction because that person is a member of a **“protected class”**



Federal Protected Classes

- Race
- Color
- National Origin
- Religion
- Sex
 - Includes Survivors of DV
 - Sexual Orientation
 - Gender Identity
- Familial Status (families with children)
- Disability





Oregon Protected Classes

- **Marital Status**
- **Source of Income**
 - Section 8
 - Agency rent payments
 - TANF, SSI, SSDI*
- **Sexual Orientation and Gender Identity**
- **Multnomah County adds Age over 18 and Occupation**



Who Must Comply?



- **Owners/Landlords**
- **Housing Authorities**
- **Property Managers**
- **Maintenance Staff**
- **Homeowners' Assns.**
- **Real Estate Agents**
- **Mortgage Lenders & Financial Institutions**
- **Insurers**
- **Neighbors**
- **Jurisdictions**
- **Advertising media**



Fair Housing Laws Apply to Dwellings

- Houses
- Apartments (regardless of the # of units)
- Condos and floating homes
- Mobile homes
- Retirement housing, assisted living, etc.
- Nonprofit housing and shelters
- Possibly motel rooms, vacation rentals



Limitations of Fair Housing



When is it legal for a landlord to treat one applicant or tenant differently than another?



It is legal for a landlord to treat some applicants differently...

Applicants with problem histories:

- Rental references
- Criminal backgrounds
- Credit histories
- Insufficient incomes

Should have **consistent criteria and procedures** and should review applications in chronological order.

If landlords make exceptions to criteria, it is advisable have a clear policy outlining why. (ex. Completed tenant education)

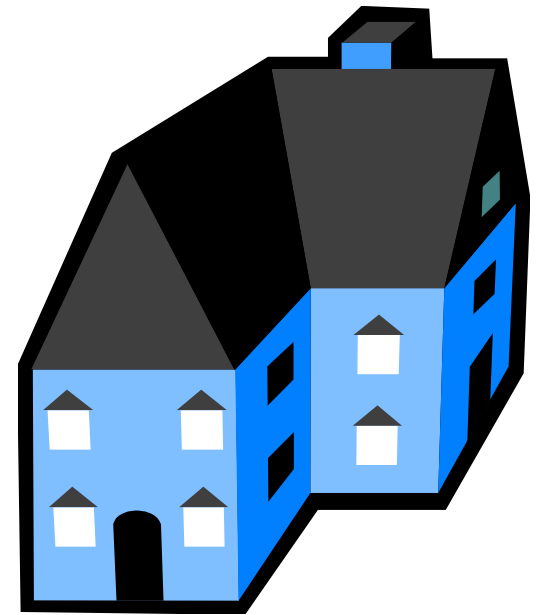




It is Legal for a landlord to treat some tenants differently...

Residents who violate their rental agreement:

- Don't pay their rent on time
- Disturb the neighbors
- Damage the property
- Involved in illegal activities



Landlords need to have **consistent** rules and procedures!

Leveraging Fair Housing



According to fair housing law, when is it illegal for a landlord to treat an applicant or tenant differently?

- **Is the housing provider treating an applicant or tenant differently than other applicants/tenants?**
- **Is it because the applicant/tenant is part of a protected class?**



RED FLAGS: Possible Housing Discrimination During Application

Refusing to rent, sell or finance

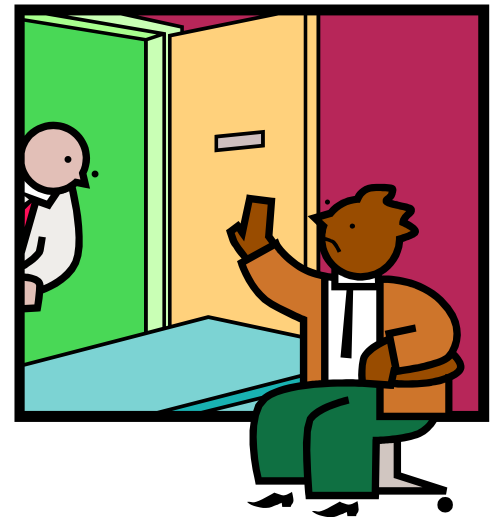
Giving out false or inconsistent information

“Linguistic profiling” and not returning inquiry calls

Steering

Discriminatory advertising

***Need consistent screening procedures & criteria (income, rental, credit, criminal history)**





RED FLAGS: Possible Housing Discrimination During Tenancy

Making discriminatory statements

Applying different policies, rules, and procedures

Discriminating against residents with protected class guests

Harassing, intimidating, threatening, or coercing

- **Sexual harassment**
- **Neighbor on neighbor harassment**



RED FLAGS: Possible Housing Discrimination During Move-out

Retaliation

Termination notices

Evictions



Possible housing discrimination?

- Is it related to a protected class?
- Paper trail

***Housing providers need to be consistent in how they apply policies, rules, procedures in all stages of the rental process**



Source of Income

- **House Bill 2639 passed in 2013**
- **Makes it illegal for housing providers to discriminate against applicants or tenants who use housing assistance**
- **Established a Housing Choice Landlord Guarantee Program**



Source of Income

- Includes federal rent subsidy payments and any other local, state or federal housing assistance
- TANF, SSI, SSDI, etc.
- What we know



Source of Income Is Not

- Income from occupation
- Type of occupation
- “income derived in an illegal manner”





Fair Housing Covers

- **Application**
- **Tenancy**
- **Move out**
- **So what does source of income discrimination look like?**





RED FLAGS: Possible Housing Discrimination During Application

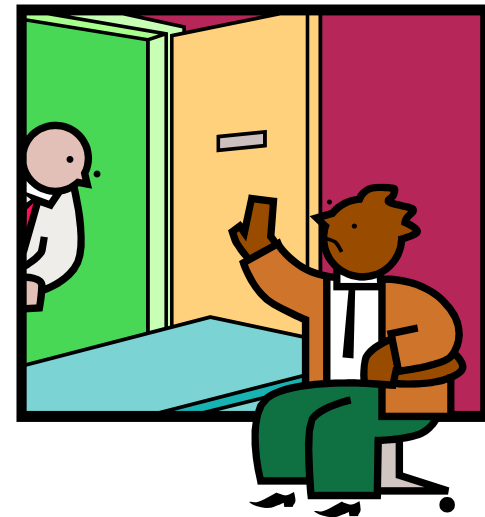
Don't accept section 8 or other housing subsidy

Refuse to work with a social service agency that provides a subsidy

Won't work with the Housing Authority because of the paperwork

Saying the unit has been rented

Landlord becoming cold, aloof, or the conversation ends once someone shares they have a housing subsidy





RED FLAGS: Possible Housing Discrimination During Application

Keeping units in poor conditions so they don't pass housing quality inspection standards (HQIS)

Asking additional questions about how the applicant might make enough money to pay bills even though they qualify to rent with the voucher

Telling someone they don't make enough money to rent the unit even though they do with the voucher





Calculating Rent Amount with a Voucher

Screening criteria: Tenant must make three times the amount of rent

Section 8 voucher program requires tenants to pay a third of their income towards rent

**Example: Tenant earns \$1600 per month in benefits
(Tenant rent = \$533 a month with the voucher)**

The total unit rent is \$1300 per month and the voucher will cover \$767

Therefore, the tenant makes three times the amount of rent THEY would pay making them qualify



RED FLAGS: Possible Housing Discrimination During Tenancy

More inspections

Stricter enforcement around rules (ex. Noise)

Excessive write ups

A landlord trespassing the case worker of the agency that pays the housing subsidy





RED FLAGS: Possible Housing Discrimination During Move-out

Moving to terminate tenancy for rental contract violations (ex. Resulting from the excessive inspections)

Retaliating and filing for eviction if the request “too many” repairs

***Housing providers need to be consistent in how they apply policies, rules, procedures in all stages of the rental process**







Housing Discrimination in Oregon

- **Disabilities are the most prevalent by nearly 50%**
- **Race, National Origin, and Familial Status 15-20%**



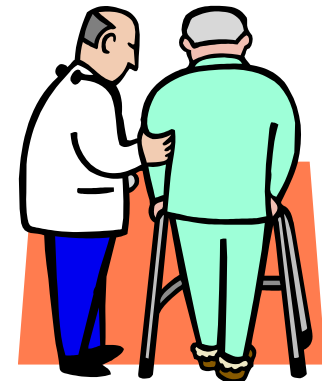
Disabilities

- **Definition:** **Any physical or mental condition that substantially impairs a major life activity**
 - Walking
 - Seeing
 - Hearing
 - Breathing
 - Thinking
 - Caring for oneself



The Protected Class of Disability Includes:

- **Ongoing chronic medical conditions**
 - (ex. MS, Cerebral Palsy, Schizophrenia, Autism, Seizure Disorder, Asthma, PTSD, ADHD, Depression, Anxiety)
- **Addiction to alcohol and drugs (not current users of illegal drugs)**
- **Includes history of a disability**
- **Includes assumption of disability**



Note:

- **A housing provider can't discriminate based on disability**
- **The applicant or tenant must be able to follow the rental agreement**



Disability is Different from the Other Protected Classes

A landlord may need to provide something extra/remove a barrier that would prevent the person from living there



Reasonable Modification: A physical change to a unit (ramp, grab bars in shower, adapted bathrooms or kitchens)

Reasonable Accommodation: An exception to a standard policy, practice, or procedure

The RA Request...

Can occur at any time

- **Application process**
- **While residing in the unit**
- **After receiving notice**



There is no limit on the number of accommodations a resident can request

Each request is evaluated on its own merits



Examples of Reasonable Accommodation Requests

These requests restore equal ACCESS or equal ENJOYMENT to housing

Examples:

- **Overlook screening barriers related to a disability**
- **Assistance animals**
- **Parking space**
- **Time to address lease violation, termination notice, eviction notice if this was caused by a symptom of the disability**

Requesting a RA

Does the applicant or tenant:

- **Have a disability?**
- **Is the request related to the disability?**
- **Is the request necessary for equal access and/or equal enjoyment of the unit?**
 - Includes being able to meet the requirements in the rental agreement



Requesting a RA/RM

- Initiated by applicant or resident
 - Best if done in writing (paper trail)
 - Identify request as a Reasonable Accommodation or Modification and state it is related to disability
 - **Bring verification letters**
 - Advocate can help create a plan or role play



Verification



Verification Corner

- **Verifiers of disability must be a qualified individual**
 - Can include and is not limited to doctor, nurse, PA, NP, counselor, psychiatrist, psychologist, drug and alcohol counselor, therapist, social worker, sponsor, pastor, etc.
- **Verifier does not have to disclose the type of disability or the physical benefits of the RA or RM**
 - They need to state the RA or RM is necessary for equal access or equal enjoyment of a unit
 - Verification must help establish connection between RA or RM and disability



All requests must be considered, but the request must be **reasonable....**

Reasonable doesn't mean second guessing the resident's doctor or therapist



It has to do with the impact on the housing provider





All requests must be considered,
but request must be **reasonable....**

- Not too costly
- Not an undue burden
- Part of the housing provider's job description



Not a Direct Threat to Residents of the Property



Resources

1. **Joint Statement of the Department of Housing and Urban Development and the Department of Justice: *Reasonable Accommodations under the Fair Housing Act***
2. **Statement of the Department of Housing and Urban Development: *Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs***
3. **Statement for the Department of Housing and Urban Development: *Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act*; Issued Jan 2020**



DISPARATE IMPACT

Discrimination can mean a landlord's neutral policy, when put into practice, has a greater negative effect on one group of people of a certain protected class more than another group of people.

Beware of Neutral Sounding Policies with “Disparate Impact”

- No one can prepare or eat curry in these units
- No one can work in the fish cannery
- No tricycles allowed



Disparate Impact and Criminal History Screening

- Disparate impact on race and national origin
- Don't say no arrests
- For felony conviction, need to identify ones that would endanger residents, property
- Should consider how long ago
- Should consider at rehabilitation



Disparate Impact and Domestic Violence

- Applicants who were victims of domestic violence may also ask a landlord to make an exceptions to rental, credit, or criminal history screening criteria if those barriers are related to the DV
- A landlord can ask them to verify the circumstances with a restraining order, police report, letter from DV Shelter, etc.



Disparate Impact and National Origin

- If a landlord requires SS numbers, they must require them for everyone.
- There are other ways besides SS cards to verify who they are and their history.
- If landlords refuse to use other ways to verify, it probably is discriminatory - especially if the applicant is a legal resident.



Familial Status

- **Families with children under the age of 18 years**
 - No matter who's raising them: persons in the process of securing custody, foster families, etc.
- **Pregnant individuals**
- **Senior housing exemption**



It's Illegal to:

- Refuse to rent to families with children, toddlers, teens, etc.
- Steer
- Have unreasonable occupancy standards



It's Illegal to:

- **Have rules specifically aimed at children**
 - No children in the laundry room
 - Adults only pool times
- **Have unreasonable or overly restrictive policies that mainly affect families with children**
 - No running anywhere in the complex
 - No toys on the balconies
 - Origin of safety rules
- **Beware of supervision rules**





How Fair Housing Laws are Enforced

- **Most commonly, FHCO is contacted first**
 - 2,000 contacts a year
 - If the complainant prefers, we can sometimes directly advocate for speedy resolution
 - We can assist the client in filing a complaint with HUD or the Oregon Civil Rights Division (BOLI)
- **Investigation**
 - Did discrimination occur?
 - Investigation tools
 - Is it a dwelling?
- **Enforcers can include BOLI, HUD, State Attorney General's office, US Dept. of Justice and/or an attorney (LASO, civil rights, etc.)**
- **Outcomes**





Would You Like to Help Uncover Housing Discrimination?

**Learn how to become a
Fair Housing Tester**

(503) 223-8197, ext. 104





Contact the Fair Housing Council of Oregon for More Information

Fair Housing Renter's Rights Hotline; *Fri 9:00 a.m.-noon*
(800) 424 - 3247 x 2 or (503) 223 - 8197 x 2

Housing Provider Hotline
(800) 424 - 3247 x 5 or (503) 223 - 8197 x 5

information@fhco.org

www.fhco.org

Evaluation and Final Questions

