

# Understanding Fair Housing: Best Practices for Housing Providers

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September 8, 2021

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# Objectives

Identify fair housing issues

Understand protections for people with disabilities

Address reasonable accommodation and modification requests

Understand policies that can create a disparate impact





# Fair Housing Laws

Federal: The Fair Housing Act (Title VIII of the Civil Rights Act of 1968)

State: Iowa Civil Rights Act of 1965 (Iowa Code Chapter 216)

# Scenario 1

Todd calls Au Revoir Estates to inquire about an apartment for rent. During the call, Todd mentions that he is a lawyer. “I’m sorry,” the landlord says, “I don’t rent to lawyers.” Has the landlord violated fair housing laws?

No, Todd is not a member of a protected class.

# Who is protected?

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## FHA & ICRA

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

## ICRA

- Sexual Orientation
- Gender Identity

## Scenario 2

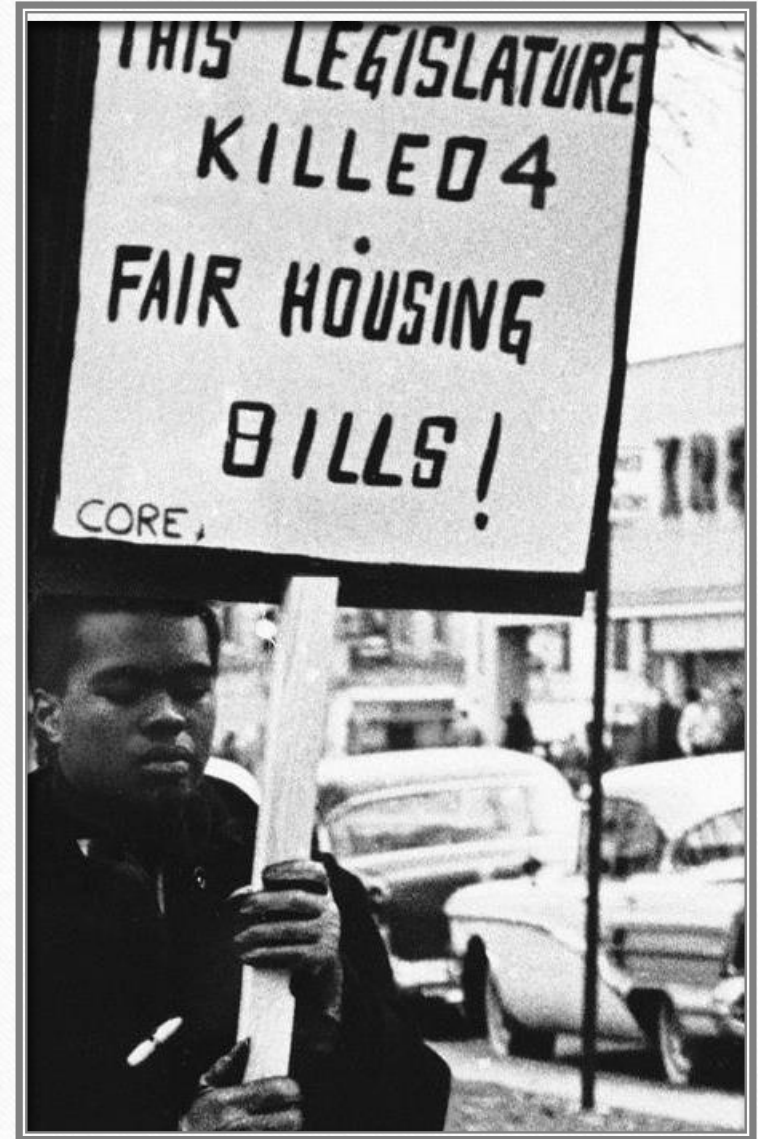
Daniel, who is African American, speaks to a landlord about leasing an apartment. On the phone, the landlord seems eager to rent to Daniel, but when Daniel meets with the landlord in person to fill out an application, the landlord's attitude is entirely different. A few days later, Daniel receives a letter saying that his application was denied because of a negative reference from his current landlord. Daniel is surprised because he never had problems with his landlord, and his landlord swears she was never contacted for a reference. Has the landlord violated fair housing laws?

Yes, the landlord appears to be discriminating based on race.



# What type of housing is covered?

- The law covers most housing, including single-family homes, apartments, student housing, farmworker housing, nursing homes, and homeless shelters.
- Mrs. Murphy's exception: Owner-occupied building with no more than four units.



# Transactions Covered by Fair Housing Laws

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- Rental
- Sales
- Lending
- Appraisals
- Insurance
- Advertising



## Scenario 3

Isiah, who is an African American male, meets with a real estate broker to discuss purchasing a house on North Grandview Avenue. When Isiah names the neighborhood that he is interested in, the broker asks him if he is sure that he will feel comfortable there. The broker tells Isiah that she has a wonderful listing on Central Avenue. Has the broker violated fair housing laws?

Yes, the broker is engaging in an illegal steering practice based on race.

# What activities are prohibited?

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- Refusal to rent, sell, or negotiate
- Misrepresent availability
- Different terms, conditions, or privileges
- Advertise any preference, limitation or discrimination
- Different sale prices or rent
- Use different qualification criteria
- Steering
- Blockbusting
- Redlining
- Harassment
- Otherwise make unavailable
- Refuse reasonable accommodation/modification

## Steering Examples

- Discouragement
- Exaggerating “drawbacks” of a community
- Failing to inform about desirable features
- Stating an applicant would be “more comfortable” elsewhere



# HUD Settlement No. 19-109 (July 23, 2019)

- Allegation: Real estate company treated testers posing as black home seekers less favorably than testers posing as white home seekers. Specifically, tests showed black testers were told that there were no homes available when there were and that they were required to meet tougher pre-qualification requirements than white testers.
- Settlement: Real estate company to pay \$10,000 to fair housing agency, and its agents will attend fair housing training.

## Scenario 4

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Manuel is an undocumented person who rents an apartment from Executive Estates. A few weeks after Manuel moved in he discovered he had bed bugs. He asked the landlord to fumigate. The landlord responded that it was Manuel's responsibility to fumigate and if he failed to do so the landlord would call Immigration and Customs Enforcement (ICE). Has the landlord violated the fair housing laws?

Yes, the landlord is discriminating against the tenant based on the tenant's national origin.

# “New York Judge Fines Landlord \$17,000 For Threatening to Call ICE”

WSJ, 9/20/19

- Allegation: Landlord sent tenant, who was undocumented, a text message saying “HAVE MY MONEY OR IM CALLING ICES [sic] THAT DAY PERIOD”.
- Decision: Administrative Law Judge for New York City Commission on Human Rights ordered the landlord to pay the tenant \$17,000.



Are  
undocumented  
persons  
protected by  
the Fair  
Housing laws?

Yes, whether you are a U.S. citizen, legal permanent resident (a “green card” holder), or an undocumented resident of the U.S., you are protected by the federal Fair Housing Act.

# Definition of “Disability”



A physical or mental impairment that substantially limits one or more major life activities.



A record of such impairment.



Being regarded as having such an impairment.

# “Physical or Mental Impairment” includes:

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- Visual
- Speech
- Hearing
- Orthopedic
- Epilepsy
- Multiple Sclerosis
- Heart Diseases
- Diabetes
- Cancer
- HIV
- Emotional Illness
- Drug Addiction/Alcoholism



# Disability Laws

- Section 504 of the Rehabilitation Act (Federal Funding)
- ADA (Public Accommodations)
- Fair Housing Amendments Act (Housing)



# Scenario 5

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2-1: A tenant who uses a wheelchair resides in a ground floor apartment in a non-elevator unit that was built in 1987. The doors in the apartment are not wide enough for passage using a wheelchair. Is the landlord required to widen the doorway?

Yes.

2-2: Who is responsible for the cost?

The tenant is responsible for the cost.

2-3: What if the building was constructed in 1995?

The landlord is responsible for the cost and the tenant has a potential fair housing claim.





# Design and Construction

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- All multifamily dwellings with 4 or more units ready for occupancy after March 13, 1991.
- Applies to:
  - All ground floor units
  - All units served by an elevator
- Seven design & construction requirements.



# Seven Design Requirements

1: Accessible  
Building Entrance  
and Route

2: Accessible Public  
& Common Use  
Areas

3: Usable Doors

4: Accessible Route  
into and through the  
Dwelling Unit

5: Lights, Electrical  
Outlets,  
Thermostats in  
Accessible Locations

6: Reinforced Walls  
for Grab Bars in  
Bathrooms

7: Kitchens and  
Bathrooms with  
Sufficient  
Maneuverable Space

# Reasonable Accommodation v. Modification

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A **reasonable modification** is a structural change made to existing premises by a person with a disability, in order to afford such person full enjoyment of the premises.

A **reasonable accommodation** is a change in a rule, policy, practice, or service that may be necessary to allow a person with a disability the equal opportunity to use and enjoy a dwelling.

# Reasonable Modification — Basics

Tenant is usually responsible for the cost (unless Section 504 of the Rehabilitation Act applies)

Not limited to interior of the dwelling

Tenant must secure landlord's approval before making the modification

Landlord may require modification be performed in "workmanlike manner"

Landlord may not require increased security deposit, but may, in some cases, require a interest-bearing escrow account be opened to restore the unit



# Reasonable Modification – Examples

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- Allowing a ramp to be built
- Widening doorways
- Installing stair lift
- Removing carpet
- Providing grab bars in shower
- Installing roll-in shower
- Providing a door bell flasher
- Providing a visual alarm system
- Removing base cabinets
- Removing protruding objects from outside pathways
- Providing a non-slip, color contrasting strip to outside stairs

U.S. v.  
Croom (D.  
N.M., 2013)

- Allegation: Complainant made request for various modifications including widening doorway of bathroom. Requests were denied and Plaintiff was asked to vacate the property.
- Settlement: Landlord agreed to pay \$200,000 to Plaintiff and its employees will attend fair housing training.

# Reasonable Modification — Restoration

Housing provider is required to request the restoration.

Tenant is only obligated to restore interior when it is reasonable to do so.

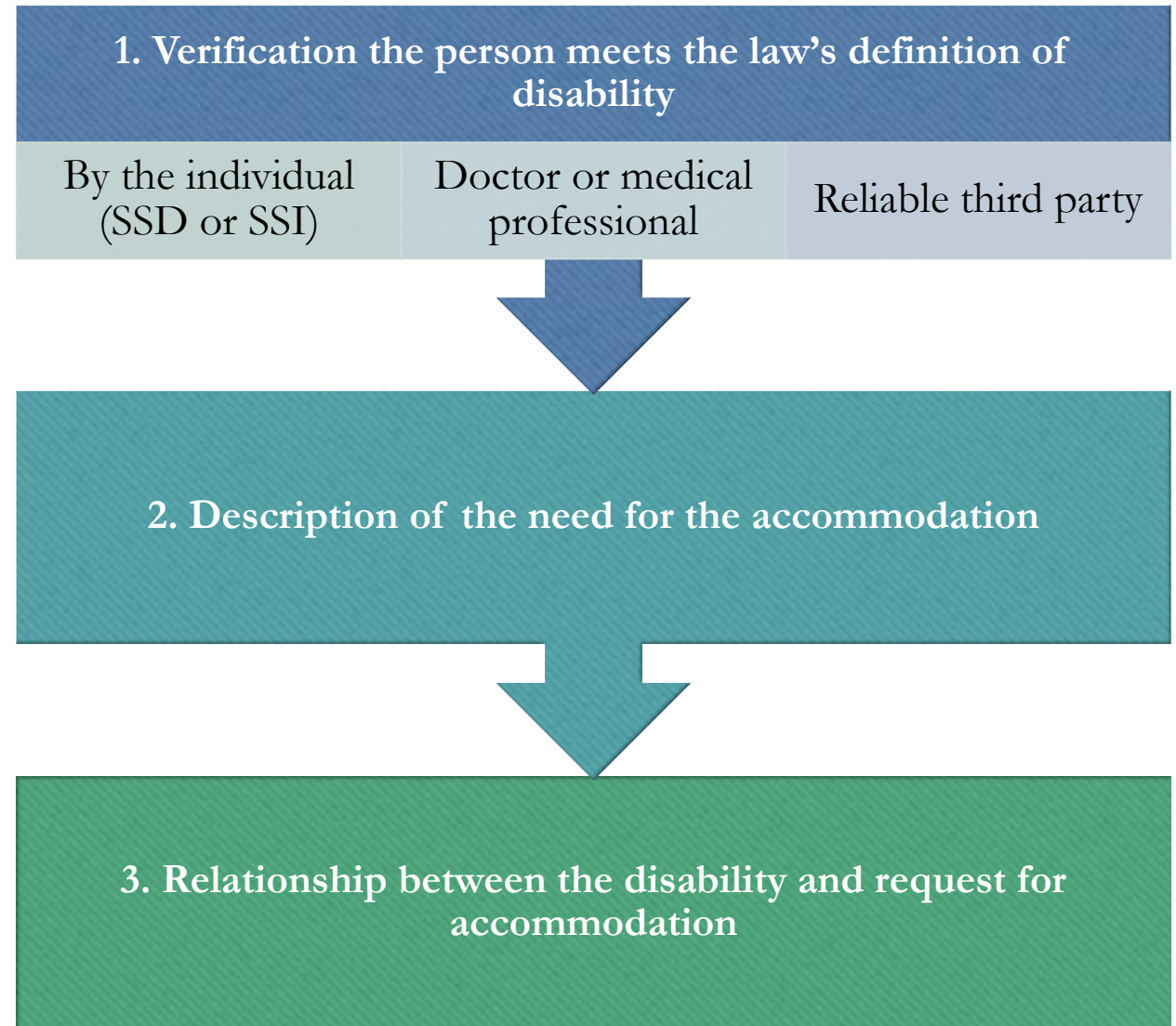
If modification does not effect subsequent tenant's use and enjoyment of the premises then the tenant is NOT required to restore.

Tenant is not responsible for reasonable wear and tear.

Tenant is not responsible for restoring modifications to common areas.



# Reasonable Accommodation — Documentation



# Reasonable Accommodation – Prohibitions

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A housing provider may not inquire as to the nature or severity of the person's disability.

A housing provider may not require tenant to obtain extra insurance.

A housing provider may not require tenant to pay for costs associated with accommodation.

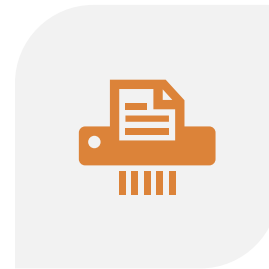
# Reasonable Accommodation — Examples



TRANSFERRING FROM  
UPSTAIRS UNIT TO GROUND  
FLOOR



DESIGNATING A THIRD  
PARTY CONTACT



READING NOTICES TO THE  
TENANT OR PROVIDING  
NOTICES IN BRAILLE,  
LARGE PRINT OR AUDIO



ALLOWING AN ASSISTANCE  
OR SERVICE ANIMAL



## Scenario 6

Mary Jane lives on a second floor apartment. She recently began using a walker to get around. She requests to move to a ground floor apartment. The landlord refuses, saying no units are available. Has the landlord violated the fair housing laws?

Yes, but accommodation must not create an undue burden.

U.S. and  
Stadtlander v.  
Warren  
Properties,  
Inc.  
(S.D. Ala.,  
2010)

- Allegation: Landlord failed to permit a tenant with a mobility impairment to move to a ground floor apartment. The tenant suffered injuries as a result of falling down the stairs.
- Settlement: Landlord agreed to pay \$1.25 million to complainant and government, hire an accommodation facilitator and attend a fair housing training.

## Scenario 7

Gary uses a wheelchair and has a disabled parking permit for his car. All parking is open to all tenants, but he asks management to give him a reserved space close to his unit. He also asks that the space be expanded to accommodate his wheelchair. The manager says that the project already has the required number of “disabled” parking spaces and so he will not grant Gary’s request. Has the landlord violated the fair housing laws?

Yes, the landlord is discriminating against the tenant on the basis of disability.



# When is a reasonable accommodation unreasonable?

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WOULD IMPOSE AN UNDUE  
FINANCIAL BURDEN



WOULD FUNDAMENTALLY  
ALTER THE NATURE OF THE  
HOUSING PROVIDER'S SERVICES



TENANT POSES A DIRECT  
THREAT TO THE HEALTH OR  
SAFETY OF OTHERS

## Scenario 8

A landlord requires all persons applying to rent an apartment to complete an application that includes information on the applicant's current place of residence. On her application to rent an apartment, a woman notes that she currently resides at Heart of Iowa. The manager knows that Heart of Iowa is a substance abuse treatment facility. Based solely on that information and his personal belief that addicts are likely to cause problems and damage the property, the landlord rejects the applicant. Has the landlord violated the fair housing laws?

Yes, the rejection is based on a generalized stereotype related to a disability rather than an individualized assessment of any threat to others based on reliable, objective evidence about the applicant's recent past conduct.

## Scenario 9

Danny has a psychiatric disability. Danny is arrested for threatening his neighbor with a baseball bat. The landlord investigates and discovers Danny was physically restrained from assaulting his neighbor. Following the landlord's standard practice of strictly enforcing its "no threats" policy, the landlord gives Danny a 3-day clear and present danger notice. Has the landlord violated fair housing laws?

No, Danny's behavior poses a direct threat to the health or safety of others.



1. Nature, duration and severity of the risk of injury

2. Probability injury will actually occur

3. Whether there are any reasonable accommodations that would eliminate the direct threat

## Direct Threat – Individualized Assessment

## Scenario 10

Danny's attorney sends the landlord a letter explaining that Danny has a psychiatric disability that causes him to be physically violent when he stops taking his prescribed medication. The attorney requests that the rental manager grant Danny an exception to the "no threats" policy as a reasonable accommodation based on Danny's disability provided that Danny receive appropriate counseling and medication management. The landlord does not respond to the letter and files an eviction case. Has the landlord violated the fair housing laws?

Yes, the landlord has failed to reasonably accommodate Danny.

## Scenario 11

Brooke, who lives with an assistance animal, provides written proof to the landlord from her doctor that she has a disability and that the animal serves a therapeutic purpose. The landlord responds that in order to approve the request he needs proof that the animal is trained and certified. Has the landlord violated the fair housing laws?

Yes, proof of training/certification is not required for service animals under the Fair Housing Act.



# Service v. Assistance Animals

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## Service

- Dog or miniature horse
- Retained to do work or perform tasks for a person with disabilities
- Individually trained

## Assistance

- All types of animals
- Provide comfort, companion, therapy, assistance
- No special training
- Not a pet

# Elements of Assistance Animal Claim

- (1) Does the person have a disability?
- (2) Does the person have a disability-related need for an assistance animal?

## Assistance Animals – Examples

- Guiding individual who is blind.
- Alerting individual who is deaf.
- Providing companionship to person with depression.
- Alerting person to impending seizures.
- Providing emotional support to PTSD survivor.





# Assistance Animals - Accommodations

“No pets” policy

“Pet” deposit

“Pet” rent/fee

Weight/Breed restrictions

Number of animals

## Direct Threat — Individualized Assessment



Does the specific animal pose a direct threat to others?



Would the specific animal cause substantial damage to the property of others?



Must be based on objective evidence about the specific animal.

# New rules for assistance animals — IC 216.8B and 8C



Licensee must make written finding tenant has a disability and has a need for an assistance animal related to their disability.



Licensee must certify that they (1) met with the tenant in person or by telemedicine; (2) that they are sufficiently familiar with the patient and their disability; (3) that they are legally and professional qualified to make the finding.



ICRC promulgated a form licensees should use:  
[https://icrc.iowa.gov/sites/default/files/publications/2019/Request%20for%20Assistance%20Animal%20in%20Housing%20Health%20Care%20Professional%20Form\\_0.pdf](https://icrc.iowa.gov/sites/default/files/publications/2019/Request%20for%20Assistance%20Animal%20in%20Housing%20Health%20Care%20Professional%20Form_0.pdf)



Definition of disability under ICRA includes “infectious diseases”. IC 216.2(5).

Definition of disability in FHAA regulations include conditions effecting respiratory or digestive organs.

Even without debilitating symptoms, the contagious nature of COVID-19 impacts the ability to perform major life activities such as working.

Is COVID-19  
a disability?

# Potential Reasonable Accommodations for COVID-19

Offer payment plan for rent in arrears

Waive late fees

Extensions of deadlines to complete tenant maintenance tasks

Acceptance of late recertification paperwork

Appoint another person to handle tenant's affairs



Potential  
Reasonable  
Accommodations  
for Persons with  
Disabilities at  
High Risk of  
COVID-19

Offer payment plan for rent in arrears

Waive late fees

Inspection of unit be delayed

Change guest policies to provide access to caregivers



## Scenario 12

Shannon is a certified nurse's assistant at Mercy Hospital in Dubuque. Her landlord is concerned about her exposure to COVID-19 and on this basis gives her a 30 day notice ending her month-to-month lease. Has the landlord violated the fair housing laws?

Probably yes, it appears the landlord regards Shannon as having a disability based on her exposure to COVID-19 at her job and is discriminating against her on this basis.

## Scenario 13

David watches his grandson on weekends while his daughter works as a certified nurse's assistant at Mercy Hospital. David learns that his daughter and grandson have become infected with COVID-19. David tells his landlord he has been exposed to COVID-19, and David's landlord tells him he needs to immediately vacate the premises for two weeks and provide a negative COVID-19 test before he can return to his apartment. Has David's landlord violated the fair housing laws?

Yes, David's landlord appears to be discriminating against him on the basis of disability.

## Scenario 14

Ben and Robin are filling out an application for a mortgage at their local bank. Their loan officer notices that Robin is visibly pregnant and asks whether she will be taking maternity leave. When Robin says yes, the loan officer informs the couple that they either have to apply without Robin's income or wait until she returns from leave. "I'm sorry," the loan officer says, "but I've seen too many women change their mind about going back to work." Has the loan officer violated fair housing laws?

Yes, the loan officer is discriminating based on familial status and sex.



# Familial Status



Familial status means  
one or more minor  
children living with

(a) A parent or  
another person  
having legal  
custody

(b) A designee  
(includes foster  
parents)



The protections afforded against  
discrimination on the basis of familial  
status shall apply to any person who is  
pregnant or is in the process of  
securing legal custody of a minor child.

## Scenario 15

A landlord restricts the age of a tenant's children to 12 and under because older teens would have additional rule violations and cause problems at the complex. Is the landlord violating fair housing laws?

Yes, the landlord is discriminating based on familial status.

## Scenario 16

An apartment project has a schedule of rental rates based on the number of persons living in a unit. Is the landlord violating fair housing laws?

Yes, the landlord is discriminating based on familial status.



## Scenario 17

Jack recently moved to Dubuque from the Marshall Islands. Jack is interested in renting a large single family home with his wife, four children, parents, sister, and her child. Jack finds a five-bedroom house for rent advertised for \$1,200 per month. When Jack calls to inquire about it the landlord expresses concern about the strain eleven people will cause to the facilities in the home and states he will need rent of \$2,200 per month. Has the landlord violated fair housing laws?

Yes, the landlord is discriminating based on familial status.

# Occupancy Standards



Housing providers can set reasonable occupancy standards.



Rule of Thumb: 2 persons per bedroom (but only safe harbor is compliance with local/state building codes).



In reviewing occupancy cases, HUD will consider:

Size and number of bedrooms

Overall size of the dwelling unit

# HUD Settlement No. 19-022 (March 5, 2019)

- Allegation: Landlord discouraged multi-generational Native American family from renting six-bedroom residence by offering them less favorable rental terms, including increasing the requested monthly rent by \$1,000.
- Settlement: Landlord will pay \$74,000 to the families impacted; place a fair-housing advertisement in the local newspaper; and the real-estate broker will take fair housing and multicultural-sensitivity training.



## Scenario 18

Ann is interested in renting an apartment from John. Ann tells John that she has a Section 8 housing voucher. She hasn't been able to find a landlord who will accept vouchers, and it is imperative that she find a place to live as soon as possible. Ann confirms that she can pay the deposit John is requesting. John says he will think about it and asks if Ann can "sweeten the deal". Ann asks what he means and John says, "Well, I'm a man and you're a woman." Has the landlord violated fair housing laws?

Yes, the landlord is engaging in quid pro quo sexual harassment.

# Sexual Harassment



Quid pro quo: (“This for that.”) Housing benefits are explicitly or implicitly conditioned on sexual favors.



Hostile Environment: Behavior severe or pervasive enough to interfere with resident’s enjoyment of the premises.

## Scenario 19

A tenant has filed a few fair housing complaints against his landlord. All of them have been dismissed for lack of cause. After the tenant files another new frivolous complaint, the landlord evicts the tenant because of his baseless complaints. Is the landlord violating the fair housing laws?

Yes, the landlord is retaliating against the tenant for exercising their rights under the fair housing laws.



# Retaliation

- A housing provider cannot retaliate against another person because such person has lawfully opposed a discriminatory practice.
- A housing provider cannot retaliate against any person who makes a complaint, testifies or assists with a discrimination complaint, even if the complaint is ultimately deemed to be without merit.

HUD  
Settlement  
No. 16-057  
(April 26,  
2016)

- Allegation: Tenant made repeated requests to install ramp, which was generally provided to other tenants free of charge. Landlord installed the ramp, but refused to renew tenant's lease.
- Settlement: Landlord to pay \$10,000 to complainant, and its employees will attend fair housing training.

# Advertising

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A housing provider cannot advertise that certain persons are not welcome as renters/buyers because that person is a member of a protected class.



# Types of Advertising Covered

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- Print Ads
- TV Commercials
- Radio Ads
- Sales Videos
- Photos
- Brochures
- Billboards
- Internet/Social Media Posts
- Verbal Statements

# Other Prohibited Conduct – Advertising



Expressing a preference for or limitation on any purchaser or renter to agents, brokers, prospective sellers or renters or any other persons is illegal.



Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities is also prohibited.

# Dos and Don'ts – Advertising

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## Do

- Advertise characteristics of the property.

## Don't

- Advertise characteristics of desired prospective tenant/buyer.



## Scenario 20

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Yes, the landlord is  
discriminating based on  
familial status.

**\$1600 / 2br - 1600ft<sup>2</sup> - 2 Bedroom 2  
Bath includes utilities**

Beautiful furnished two bedroom, two bath, full kitchen and living areas, two story with garage or outdoor parking. Square feet is approx 1600ft; Rural Location!! Ideal for a traveling professional or couple

## U.S. v. Brinson (May 26, 2016)

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- Allegation: Landlord placed a series of advertisements expressing a preference for adult tenants. Landlord refused to rent to a family with three children because they did not want children living on their property.
- Settlement: \$14,000 to family; \$10,000 to victim's fund; \$12,000 civil penalty; fair housing training.

# Scenario 21

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Yes, the landlord is  
discriminating based on  
religion.

## **\$350 / 1br - 300ft2 - Roommate Wanted**

I'm 57 years old and I live with my son. I have a separate room in my apartment that I am renting out. There is a \$200 deposit upon moving in. Rent is due on the first of every month (no exceptions). Here are some details about the room.

PROS. \* Bed and nightstand / \* Walk-in closet

No No's \* No smoking, drugs, alcohol, etc. /  
\*Definitely No drama

I am a Christian and so is my son. We keep to ourselves and go to church.



## Scenario 22

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No, this advertisement does not discriminate against individuals in a protected class.

**\$1400 / 3br - 960ft<sup>2</sup> - 2 bath walk to UNR**

Large two bedroom unit. Near shopping and schools. Disability accessible and family friendly.

NUMBER OF ROOMS: 3 large bedrooms + Kitchen + Living room + Full bathroom + several storage closets + Laundry room

## Scenario 23

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East Nashville. More *neighbor* than hood.

ARMSTRONG  
REAL ESTATE

“East Nashville.  
More *neighbor* than  
hood.”

Yes, this  
advertisement is  
discriminatory  
based on race.



# Scenario 24

## Facebook Advertisements



### Your Ad is Approved

Your ad just started running, so you don't have any results yet. When you do, you'll see them here.

### Order Summary



You are targeting men and women, ages 18 - 65+ who live in 1 location.

Location - Living In:

United States: New York

Age:

18 - 65+

Exclude:

Interests: Braille, The Guide Dogs for the Blind Association, Guide Dogs for the Blind, Wheelchair accessible van, Wheelchair ramp or American Sign Language

[Hide full summary](#)



This promotion will run for **1 day**.



Your total budget for this promotion is **\$5.00 USD**.



# National Fair Housing Alliance *et al* v. Facebook

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- Allegation: Facebook's advertising platform allowed housing providers to exclude individuals from protected classes.
- Settlement: Facebook agreed to create a page where Facebook users can search all housing ads and provide \$500,000 advertising credit to four fair housing plaintiff organizations.

# 2 Types of Discrimination

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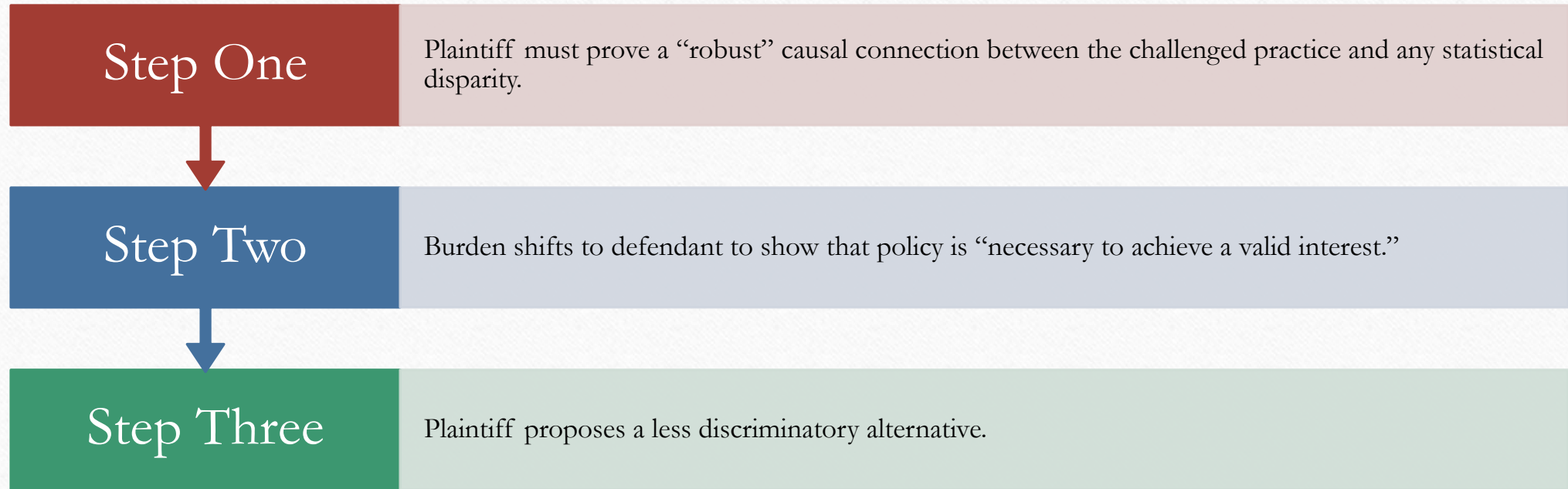
## Disparate Treatment

Intentional discrimination against a protected class.

## Disparate Impact

Practices not necessarily intended to discriminate but that have a disproportionately adverse effect on a protected class.

# Analyzing a Disparate Impact Claim





# 2016 HUD Guidance — Crime Victims



Pertains to nuisance/crime-free housing ordinances that require housing providers to abate a nuisance or risk penalties.



80% of victims of domestic violence are women.



Ordinances that have the effect of punishing victims of domestic violence may constitute discrimination based on sex.

HUD  
Settlement  
No. 19-044  
(April 5,  
2019)

- Allegation: Manager of an apartment building refused to remove a woman's then-husband from the lease or change the locks after the woman obtained a restraining order against him.
- Settlement: \$20,000 to resident and fair housing training.

# 2016 HUD Guidance — Limited English Proficiency



Lack of English proficiency is often used as a proxy for national-origin discrimination.



Language-related restrictions should be given the closest possible scrutiny.



Suspect practices include blanket statements that all tenants must speak English or turning tenants away who are not fluent in English.



## Scenario 25

Yoko moves to Dubuque from the Marshall Islands. She speaks Marshallese and is not fluent in English. She inquires about an apartment and the landlord refuses to speak with her because she does not speak Marshallese. Is the landlord violating the fair housing laws?

Yes, the landlord is discriminating based on nation origin. There is a significant Marshellese community in Dubuque.

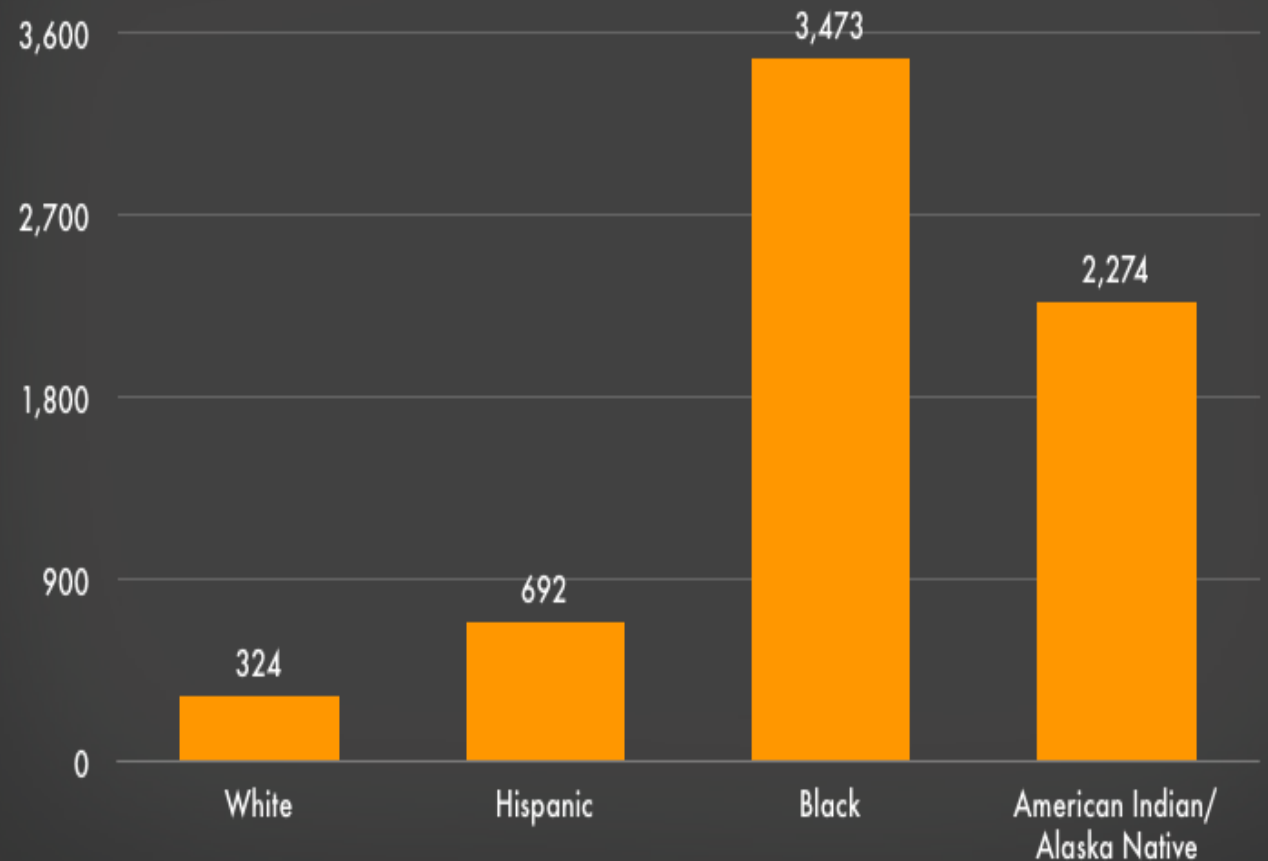
## Racial Disparity in Iowa Incarceration Rates

In Iowa, African Americans are incarcerated 11.1 times the rate of whites.

- 3.1% of population is African American.
- 25.8% of the prison population is African American.

## IOWA INCARCERATION RATES BY RACE/ETHNICITY, 2010

(Number of people incarcerated per 100,000 people in that racial/ethnic group)



# 2016 HUD Guidance — Criminal Records



Mass incarceration has disproportionately effected persons of color.



Criminal record is not a protected class, but policies that disproportionately effect one race over another may violate FHA.



Ensuring safety is a legitimate interest, but the provider must establish its policy is actually protecting other tenants.



Rejects blanket bans.



# Individualized Assessment

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- Nature
- Severity
- Recency

## Scenario 26

A landlord has a policy of rejecting all applicants who have an arrest or conviction relating to drugs. Does the landlord's policy violate fair housing laws?

Yes. The landlord needs to perform an individualized assessment that considers the nature, severity and recency of the conduct to evaluate whether the tenant currently poses a threat to other tenants or the landlord's property.

# HUD Settlement No. 18-036 (2018)

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- Allegation: Tests conducted by Fair Housing Council of Riverside County (FHCRC) showed that California-based Sierra Vista Apartments and Grand Oaks Apartments offered different terms and conditions and misrepresented availability of units based on applicants' race and national origin.
- Settlement: \$8,000 to FHCRC, employees mandated to attend a fair housing training, and agreed to replace "no criminal background" policy.



# Fortune Society v. Sandcastle Towers (2019)

- Allegation: Landlord's policy of not accepting tenants with a criminal background created a disparate impact that negatively effected applicants based on race.
- Settlement: Landlord agreed to pay Fortune Society \$1,187,500.

## Scenario 27

A manager routinely screens all prospective applicants by checking the registered sex offender database on the internet and rejecting those applicants who appear on the database. Does the landlord policy violate the fair housing laws?

No. The landlord has a legitimate interest in protecting the safety of other residents.

## Scenario 28

The landlord has a policy of denying any application when the rent would exceed 30% of the applicant's income. Does the landlord's policy violate the fair housing laws?

No, the landlord has a legitimate interest in ensuring that the tenant can pay rent, though landlord has an obligation to accommodate tenants with disabilities.



## Scenario 29

Arielle owns a manufactured home and rents a lot in a mobile home park. All of the tenants that live in the park, including Arielle, are white. Arielle's boyfriend, who is African American, visits her at the park. The manager of the park tells Arielle that her boyfriend needs to fill out an application. The landlord tells Arielle her boyfriend is not allowed to come to the park because of his criminal background. Has the landlord violated the fair housing laws?

It depends on whether the landlord had a neutral criminal background policy that applied to everyone equally and whether the landlord completed an individualized assessment.

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