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The Fair Housing Act

It applies!



**EQUAL HOUSING
OPPORTUNITY**

The Fair Housing Act

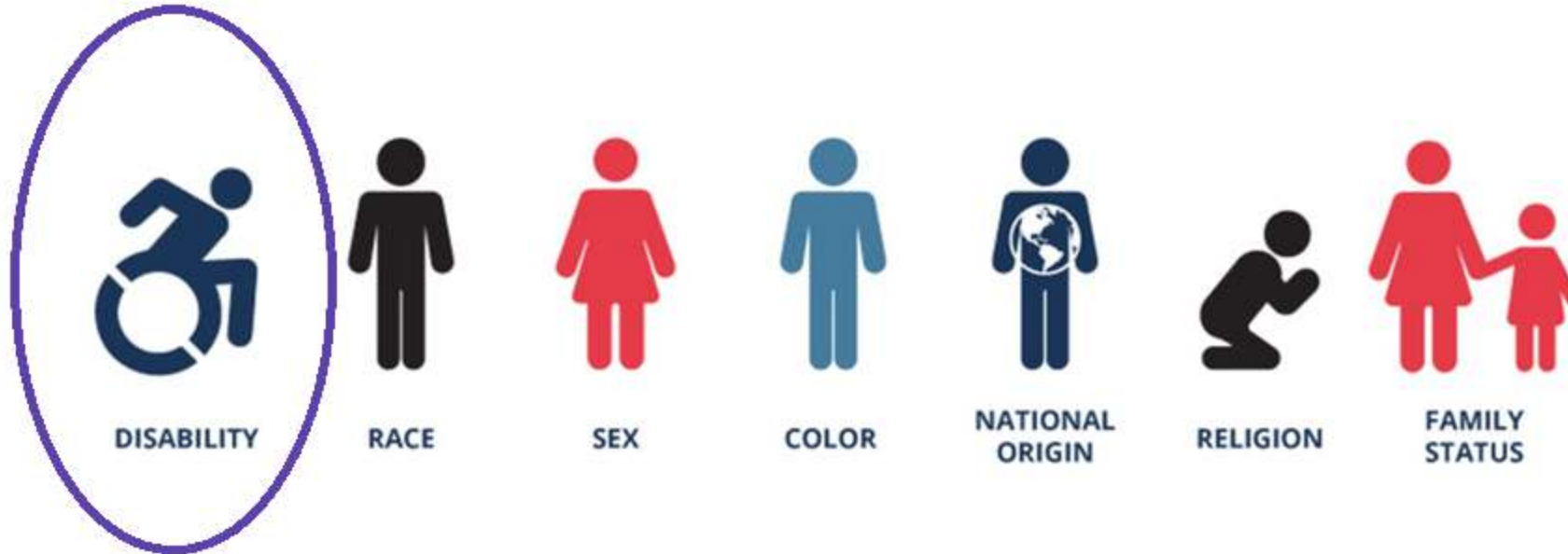


“It is the policy of the United States to provide, within Constitutional limitations, for fair housing throughout the United States.”

42 U.S.C § 3601

Protected Classes

FAIR HOUSING ACT



Disability Defined

- A **physical or mental impairment** which **substantially limits** one or more of such person's **major life activities**;
- A **record of having** such an impairment; or
- **Being regarded as having** such an impairment.

Definition of Disability is Broad

- Includes:
 - Mental Illness
 - Hearing, mobility, speech, & visual impairments
 - Autism, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes
 - Intellectual Disability, Development Disability
 - AIDS, AIDS related complex

What Housing Issues Does FHA Regulate?

- Rental
 - Reasonable Accommodation
 - Reasonable Modification
 - **Provision of Services and Facilities**
 - Representing Dwelling Not Available
 - **Different Terms and Conditions**



- Sales
- Lending
- Design and Construction
- Etc.

Who Must Comply?

- HUD or other Federally assisted housing providers
- **Private housing providers**
- Builders
- Property management companies
- Real estate agents
- HOA/COA

“Dwelling”

- Any building, structure, or portion thereof which is occupied as a residence by one or more families – this is a **broad** definition
 - “[A] temporary or permanent dwelling place, abode, or habitation to which one intends to return as distinguished from the place of temporary sojourn or transient visit.” *United States v. Hughes Memorial Home*, 396 F. Supp. 544 (W.D.Va. 1975)
 - Vacation homes, residential hotels, migrant housing, dormitories, nursing homes, group homes, and homeless shelters where persons reside for extended periods of time.

Prohibited Practices

- Refuse to rent, sell, or negotiate for housing
- Make housing unavailable or deny dwelling
- **Set different terms, conditions or privileges for the sale or rental of a unit OR for eviction**
- Deny housing is available for sale, rental, inspection
- **Using different qualification procedures/criteria**
- Deny access to a facility or service or
- Refusal to accommodate

NOTICE OF NON-RENEWAL OF LEASE

Date:

, and any other occupants

Your lease which expires on will not be renewed and you must vacate your apartment no later than the expiration date.

This non-renewal is based upon documented incidents which result in the determination you are no longer appropriate to live independently.

Waiting Lists and Tenant Selection



- The FHA does **not prohibit the exclusion of non-handicapped persons** from dwellings.
- A housing provider may also choose to offer some or all of its units to persons with handicaps on a priority basis and may inquire whether applicants qualify for such a priority.
 - So...the owner or operator of housing must be permitted to inquire of applicants to determine whether they have a handicap for the purpose of determining eligibility, may offer accessible units on priority basis for tenants with mobility impairments, etc.

54 Fed. Reg. 3232, 3246 (Jan. 23, 1989) – final rule re: 1988 amendments

Waiting Lists and Tenant Selection



- The FHA does **NOT** require housing providers to treat everyone the same.
 - Housing providers must treat people differently including by changing rules to provide equal opportunity

Be aware of (and reduce) barriers

- Written tenant selection policy
- Consistent application
- Provide copy of policy upon request



YES!

The word "YES!" is rendered in a large, bold, white font with a thick black outline. It is set against a bright yellow background. The text is stylized with multiple overlapping, semi-transparent layers of color (pink, purple, green, orange) behind the main white text, creating a sense of depth and movement. The exclamation point is also stylized with these overlapping colors.

Waitlists and Tenant Selection

- NO – “ability to live independently”
- Do not require confidential medical information that is not directly related and narrowly tailored to show qualification for the housing
- No blanket medical releases
- Excessive documentation, confusing, complex rules, inflexible deadlines – be ready to *accommodate!*



Remember...

FHA prohibits

- Imposing different rent amounts or charges because of disability (wheelchair damage, etc.)
 - So those accessible units don't cost more, no additional security deposits for people using wheelchairs, etc.
- Using different qualification criteria or applications because of disability (extra credit checks, evidence of treatment/medication)
 - No increased rents based on disability or type of disability
- Evicting tenants because of their disability (absent direct threat)
 - See reasonable accommodation