

# What is the Fair Housing Act?

**The Fair Housing Act, Title VIII of the Civil Rights Acts, prohibits discrimination in housing.**

The Fair Housing Act Prohibits Discrimination in the Sale and Rental of Housing Based on a Person's:

- Race
- Color
- Sex
- Religion
- National Origin
- Disability
- Familial Status (presence of children under 18 yrs. old)

## Why Fair Housing?

Where you live determines:

- Where your children go to school
- Ease of getting to work, healthcare, recreation
- What kind of physical danger you may be exposed to

It is good for the community:

- Ensures it is a good place for future businesses to locate
- Promotes economic growth and welfare for all

## State of Idaho Fair Housing:

- Recognizes housing discrimination based on:
  - Race
  - Color
  - Sex

- Religion
- National Origin
- Disability
- Does NOT recognize familial status
- Covers providers with 2 or more units/properties
- Is enforced through the Idaho Human Rights Commission

### **Fair Housing Act Applies to:**

- Advertising media
- Residential landlords
- Rental agents
- Housing Agents/Managers
- Real Estate Brokers and Salespersons
- Homeowners
- Homebuilders
- Banks, Savings and Loan Associations, Mortgage Lenders or other financial institutions
- Developers and contractors
- Landowners
- Condominium developers or owners

### **What is Housing?**

A “dwelling” ...

- Any building, structure, or portion of a building that is occupied or intended to be occupied
- Any of the above where a person intends to return

Housing Covered under the Fair Housing Act includes but is not limited to:

- Condominiums
- Duplexes
- Multi-unit dwellings (apartments) with 4 or more units
- Mobile homes
- Trailer courts
- Private homes

- Vacant land
- Homeless shelters
- Shelters for victims of domestic violence

More types of Housing Covered by the Fair Housing Act:

- Group homes for the recovery of drug addicts and alcoholics
- Seasonal bungalows
- Hospices
- Nursing Homes
- Assisted Living

## **Prohibited Actions Under the Fair Housing Act:**

A party may not:

- Refuse to rent, sell, or deal with a person of a protected class
- Discriminate in terms or conditions of sale
- Force tenant to provide information about extent of disability
- Unless determining eligibility for a program with priority status
- Refuse to design and construct covered multifamily dwellings that are accessible to and usable by handicapped persons
- State that housing is not available when it actually is available
- Threaten, intimidate or interfere with a protected class member or someone that has filed a complaint
- Assign different policies, conditions, or terms

## **Fair Housing Laws Prohibit:**

- Segregating and/or separating people in housing
- Aiding and abetting in unfair housing practices
- Preventing any person from complying with fair housing practices
- Exclusionary land use decisions by local governments:
  - Planning and zoning difficulties
  - Failure to provide affordable housing
  - Blockbusting:
    - Persuading owners to rent or sell quickly, at a loss to the owner but a profit to the agent

- Redlining:
  - Lender or insurer refuses their services or requires additional costs in certain neighborhoods
  - Steering:
    - Encouraging a person's choice based on race, familial status, color, disability status
    - Channeling
    - Sending a person into a neighborhood, or not showing some neighborhood, based on ethnic identity

## **Advertising and the Fair Housing Act**

**It is illegal to make, print, or publish advertisements relating to the sale, rental, or financing of a dwelling that indicates a preference, limitation, or discrimination.**

Advertising Examples:

- "Christian only" or "female only"
- "empty nesters" or "# children only"
- "adults only" or "mature couple"
- "near ... Church" or "near ... school"
- "no disabled" or "able-bodied only"
- "religious reference"
- "must be employed"
- "no Español"

Advertising Exception: Roommates may advertise for gender only.

For example: "female roommate wanted"

However, can still not show a preference based on any of the other protected classes: race, religion, color, national origin, familial status, or disability

## **Who May Take Action Against A Discriminating Party?**

Someone who:

- Believes he or she is about to be injured by a discriminatory housing practice
- Is a member of a protected class
- Acts on behalf of a person with a disability residing or intending to reside in the dwelling after it is sold, rented, or made available
- Is a member in a group that is statistically affected by a policy

Or. . .

- Testers
- Fair Housing Organizations
- Neighbors
- Community groups
- Municipalities

## **The Fair Housing Act and Landlords**

Landlords Cannot:

- Refuse to rent to or deal with a person because he/she is a member of a protected class
- Apply different rules to different people
- Refuse to make reasonable modifications for a tenant with a disability
- Retaliate against someone who has filed a complaint
- Restrict choice of unit or neighborhood
- Ask questions that indicate a different selection process
- Apply unreasonable occupancy standards

## **The Fair Housing Act and Persons with Disabilities**

### **Who Is A Person With A Disability As Defined by the Fair Housing Act?**

A person who:

- has a physical or mental impairment that substantially limits one or more major life activities
- has a record of such impairment
- is regarded as having such an impairment

### **Physical or Mental Impairment:**

Includes, but is not limited to:

- Orthopedic, visual, speech, hearing impairments
- Cerebral palsy
- Autism
- Epilepsy
- Cancer
- Heart disease
- Diabetes
- HIV/AIDS
- Mental Retardation
- Emotional illness
- Learning disabilities
- Alcoholism
- Prior drug addiction (current users not covered)

### **What Is a Major Life Activity?**

Functions or activities that are of central importance to daily life such as:

- Caring for one's self
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
  
- Working

Persons with a disability can:

- Ask for reasonable modifications
- Ask for reasonable accommodations

### **Reasonable Modifications and/or Accommodations:**

A landlord must:

- Permit a tenant with a disability to make reasonable modifications to a rental unit or common areas
- Allow a tenant with a disability to have a reasonable accommodation.

What is “reasonable modification and accommodation”?

- A reasonable modification is an alteration (change) to the physical premises
- A reasonable accommodation is some exception or change to the rules, policies, services, or regulations

Examples of Reasonable Modifications:

- Building a ramp to enter dwelling
- Widening kitchen, bathroom, and/or bedroom doors
- Installing grab bars in the bathrooms

### **Who Pays?**

- Housing providers, if federal funds are received
- Person requesting modification, when provider receives no federal funds, may be responsible for:
  - costs to make modification
  - cost to restore modification back to original condition

Examples of Reasonable Accommodations:

- Permitting a service or companion animal in “no-pet” community
  - Not charging pet deposit
- Permitting an outside agency to assist a resident with a disability to meet the terms of lease
- Permitting a live-in Personal Care Attendant
- Change in communication devices, such as increasing font size of typed documents

### **Proof of Reasonable Modifications and Accommodations:**

- A housing provider may request that a tenant provide proof showing that the modifications or accommodations requested will provide the tenant with an equal opportunity to use and enjoy place of residence.

## Verification of Disability:

- By a “qualified professional”
  - Some examples are:
    - Vocational rehabilitation counselor
    - Case manager
    - Physician’s Assistant, RN
    - Therapist, Physician
- Should never disclose the severity or nature of the disability
- Must show the relationship between the disability, the accommodation, and how it will affect housing

## Housing Providers can:

- Confirm that a verifiable disability exists through a qualified health/social service professional
- Verify that the resident with a disability can still meet essential obligations of tenancy:
  - Pay rent
  - Care for the apartment
  - Report required information to the landlord

## Housing Providers *Cannot*:

- Ask about the nature or severity of a person’s disability
- Charge an extra fee or additional deposit
- Deny modifications and/or accommodations if:
  - proof of necessity is presented
  - suggested modifications are reasonable

## **Fair Housing and Section 8**

### Definition and Purpose of Section 8

- Section 8 vouchers enable low income families to rent housing in the private market
- Subsidies cover the difference between a set percentage of the family’s income and the housing unit’s market value

- Subsidies are portable, meaning, they allow families to move to housing of their choice, closer to better jobs and schools

Problems with Section 8:

- Many landlords refuse to rent to tenants with Section 8 subsidies
- Section 8 beneficiaries are often people of a protected class
- People of color, women, persons with disabilities, and families with children

## **Taking Corrective Action**

### **Elements of a Fair Housing Case:**

A case must show:

- that a member of a protected class was discriminated against
- the dwelling is covered (4 or more units/property)
- within the time limitations
- a discriminatory act occurred such as:
  - During application or screening
  - Denial of reasonable accommodation/modification
- Inner-tenancy harassment
- Different policies, charges, treatment

Reporting Discrimination:

- Document the incident
  - Write down the date of the incident
  - Time is occurred
  - Any witnesses
  - Summary of the incident
  - Any response or action taken
- Report it

### **Report Where?**

- HUD (the US Department of Housing and Urban Development)
  - Online, [www.hud.gov](http://www.hud.gov)

- Toll Free: 1-800-669-9777
- TDD/TTY: 1-800-927-9275 (TDD)
- Intermountain Fair Housing Council
  - (208) 383-0695 in Boise
  - Toll Free: 1-800-717-0695
- Idaho Human Rights Commission
  - (208) 334-2873
  - Toll Free: (888) 249-7025
  - TDD/TTY: (208) 334-4751

### **Filing a Complaint with HUD:**

1. Complaints must be filed through the HUD administration process within one (1) year of discrimination
2. HUD will either complete an investigation of the complaint within one hundred (100) days or provide a reason it failed to do so.

### **Further Action:**

- If HUD finds that there was no reasonable cause for denial of rent, modifications, or other types of discrimination a charge will be issued and may:
  - Go on trial before an administrative law judge
  - Go to court where the complaint will be represented by the Justice Department

### **Private Attorneys:**

- Private attorneys may file a suit within two (2) years of the alleged violation
- Can be filed at the same time as a complaint filed with HUD
- Can file a suit even if HUD did not take action on the complaint
- May include more monetary damages

### **Ignorance of the Law:**

- Ignorance of the law is no defense
- A defendant may not claim that a housing authority failed to inform them properly regarding the law
- It is the housing agent's responsibility to be educated on equal housing laws

## **Intermountain Fair Housing Council**

### **Purpose of the Intermountain Fair Housing Council:**

- Seeks to advocate open housing throughout the Northern Rocky Mountain region
- Provides information and educational services to housing consumers
- Monitors and enforces fair housing compliance
- Helps negotiate fair housing settlements through mediation, conciliation, and litigation if necessary

### **The Intermountain Fair Housing Council Helps:**

- Enforce accessibility in Idaho apartments for persons with disabilities
- Enforce compliance with fair housing laws by housing providers
- Ensure equal opportunities in housing
- Provide rights to protected classes

### **How You Can Help Your Community:**

- Become a member of the Intermountain Fair Housing Council
- Be a:
  - Fair housing advocate or educator
  - Fair housing promoter or tester
  - Provider of fair housing services

### **Please contact the following with any questions and/or concerns:**

U.S. Department of Housing and Urban Development (HUD)

1-800-669-9777

-or-

1-800-927-9275 (TDD)

[www.hud.gov](http://www.hud.gov)

Idaho Legal Aid Services

(208) 345-0106 in Boise local calling area

1-866-345-0106, toll-free statewide

**En español** llamada gratis estatal, 1-866-954-2591 o 454-2591 en la área local de llamadas en Caldwell.

Intermountain Fair Housing Council

(208) 383-0695 in Boise -or- 1-800-717-0695 (toll-free)

Web Resources:

- [www.fairhousinglaw.org](http://www.fairhousinglaw.org)
- [www.nationalfairhousing.org](http://www.nationalfairhousing.org)
- <http://www.jmls.edu/fairhousingcenter/index.shtml>
- <http://www.usdoj.gov/crt/housing/>
- <http://humanrights.idaho.gov/>
- [www.hud.gov](http://www.hud.gov)

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