

Idaho Legal Aid Services, Inc.

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Fair Housing Act Overview of Law ^[1]

Fair Housing Act

- a. The Fair Housing Act, Title VIII of the Civil Rights Act, prohibits discrimination in the sale and rental of housing. It prohibits any discrimination that is based on a person's: Race, Color, Sex, Religion, National Origin, Disability, or Familial Status. These are called "the protected classes."
- b. The purpose of the FHA is to allow everyone in the community freedom to choose where they live.
- c. The Federal Fair Housing Act applies to any provider with 4 or more properties and is enforced by the US Dept of Housing and Urban Development (HUD).
- d. The State of Idaho's fair housing laws prohibits discrimination based on Race, Color, Sex, Religion, National Origin, Disability – but not familial status. It applies to any provider with 2 or more properties and is enforced by the Idaho Human Rights Commission.
- e. The FHA applies to "dwellings" which are defined as "any building, structure or portion of a building occupied or intended to be occupied. Would apply to condos, duplexes, apartments, mobile homes, private homes, vacant land, homeless shelters, nursing homes, etc.
- f. The FHA prohibits a party from refusing to rent or sell to a person b/c they are in a protected class. It prohibits discrimination in the terms or conditions of a sale or rental. It prohibits forcing a tenant to provide information about the extent of a disability. It prohibits refusing to make reasonable accommodations or modifications for a person with a disability. It prohibits segregating or separating people in housing. It prohibits steering – which is where a person is encouraged towards certain neighborhoods based on their race, familial status, color or disability. Redlining is also prohibited – which is where a lender or bank refuses to do business for certain neighborhoods. Finally, the FHA prohibits applying different policies, terms or conditions upon persons in protected classes.
- g. In regards to advertising, the fair housing act makes it illegal to print or publish advertisements that indicate a preference that is discriminatory. Examples of illegal

language in a rental or sale ad: “Christian only,” “female only,” “adults only,” “near . . . Church,” “able-bodied only,” “must be employed,” “no espanol.” One exception is that roommates may advertise for gender only.

h. The Fair Housing Act and Persons with Disabilities

i. Disability is defined under the FHA as “a physical or mental impairment that substantially limits one or more major life activities.” A major life activities is an activity of central importance to daily life, such as walking, speaking, caring for one’s self, etc. The following are examples of conditions that could qualify as a disability under the FHA: visual, speech, or hearing impairments, autism, cancer, diabetes, AIDS, mental illness, prior drug addiction (current users not covered).

ii. Reasonable Accommodations and Modifications

1. A landlord must permit a tenant with a disability to make reasonable modifications to a rental unit or common areas. A RM is a change to the physical changes – such as building a ramp or installing grab bars in the bathroom.
2. A landlord must permit a tenant with a disability to have a reasonable accommodation – which is an exception or change to the rules, policies, services, or regulations – such as requesting a support animal or requesting only first floor units.
3. The tenant must provide proof of their need for the modification or accommodation by submitting a proof of need letter from a qualified professional – typically their primary care physician.
4. Housing providers cannot ask about the nature or severity of the disability, cannot charge additional fees or deposits, and cannot deny the request if it is reasonable and proof of necessity is presented.

i. Fair Housing Act Complaints

i. If a member of a protected class has been discriminated against in obtaining or using their housing, a fair housing complaint can be filed. Examples of discriminatory acts: refusal to rent to a person in a protected class, refusing a RA or RM request, harassment of a person in a protected class, applying different policies or charges to a person in a protected class. FHA complaints can be filed with HUD by going to www.Hud.gov or calling 1-800-669-9777 or by calling Intermountain Fair Housing Council at 334-2873. Violations of Idaho’s state fair housing laws can be filed by calling the Idaho Human Rights Commission at 334-2873. Complaints to HUD must be filed within one year of the discrimination.

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