



**FAIR
HOUSING
COUNCIL**
OF OREGON

Fair Housing for Advocates

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Fair Housing Council of Oregon

www.fhco.org

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Fair Housing Laws

- Civil rights laws promoting “equal access” to housing
- Different from Oregon state landlord-tenant law
- Strong protections, but one out of ten acts of discrimination are ever reported
- Our objective is to let you know of **red flags** that could signal illegal discrimination against individuals you are working with

Protected Classes

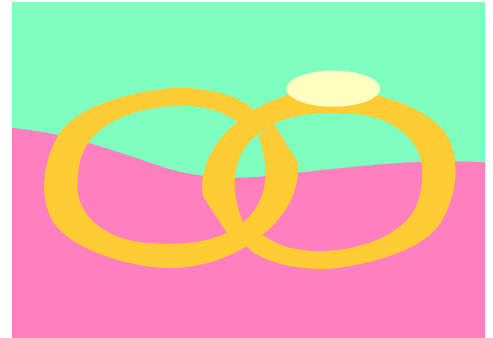
Federal:

- Race
- Color
- National Origin
- Religion
- Gender
- Familial Status (families with children)
- Disability



Oregon State

Marital Status

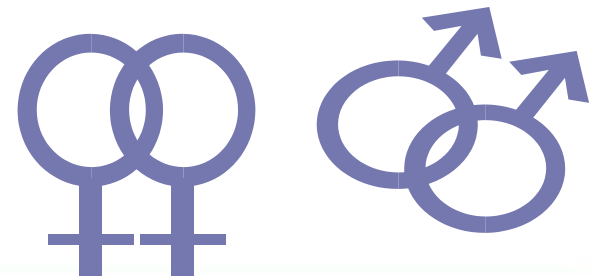


Source of Income

- TANF, SSI, SSD
- Unemployment Insurance
- Section 8 vouchers
- Agency rent checks



Sexual Orientation & Gender Identity





Housing Providers Must Treat Applicants Consistently

Applicants with problem histories:

- Rental histories
- Criminal histories
 - Must be reasonable-more later
- Credit histories

Income eligibility

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

If landlords make exceptions to their criteria, they should have a policy to back them up

- Such as making an exception for a graduate of a tenant education program





Housing Providers Must Treat Residents Consistently

Residents who violate their rental agreement:

- Don't pay their rent on time
- Disturb the neighbors
- Damage the property
- Use illegal drugs

Again, the landlords should have consistent rules and procedures!

Landlords need to be careful about making exceptions-need clear criteria

A sample rental agreement form titled "Rental Agreement MONTH-TO-MONTH". The form includes fields for the landlord's name and address, the tenant's name and address, the rental amount, and the start date. It also contains a section for the tenant's signature and date, and a section for the landlord's signature and date. The form is a standard legal document used for rental agreements.

Rental Agreement
MONTH-TO-MONTH

This rental agreement, dated _____, is between _____, owner, and _____, tenant for the premises located at _____.

Under this rental agreement, the tenant agrees to rent the above-described premises on a month-to-month basis, with a monthly rental amount of \$ _____, the monthly rent will be due and payable on the _____ day of each month, starting on the _____ day of _____, 20____. A damage deposit in the amount of the rent of signing this rental agreement. The deposit will be placed in an interest account. The amount of this deposit shall be \$ _____. If the rental unit is returned to the landlord in a clean and good condition, this deposit will be returned to the tenant within _____ days from the date the tenant returns said keys to the landlord. The tenant or the landlord may terminate this agreement with a _____ day written notice to the other party. The attached lease policy shall be considered part of the agreement and shall be binding on all parties.

The tenant acknowledges reading and understanding this agreement and the rental policy that is part of this agreement. The tenant's signature below indicates acceptance of all terms and conditions of this rental agreement and the rental policy.

[Landlord] [Date]

[Tenant] [Date]

Rental Agreement Form 10/10/10



Fair Housing Laws Apply to **All** Dwellings

- Individual Houses
- Apartments
- Condos & Floating Homes
- Mobile and Manufactured Homes
- Retirement Housing, Assisted Living, Adult Foster Care Homes, etc.
- Shelters & Transitional Housing
- Rent Assistance Programs
- Possibly Motel Rooms





Who Must Comply

- Owners
- Property Managers
- Maintenance Staff
- Shelter Staff & Volunteers
- Rent Assistance Program Staff
- Homeowners' Assns.
- Real Estate Agents
- Lenders & Insurers
- Neighbors





Housing Transactions Covered

Move in – Ongoing Tenancy – Move Out

- Refusing to rent, sell or finance
- Giving out false information
- “Linguistic profiling” & not returning inquiry calls
- Steering
 - To another complex
 - Within a complex
- Discriminatory advertising





- **Applying different policies, rules and procedures**
- **Making discriminatory statements**
- **Discriminating against residents with protected class guests**
- **Evicting based on protected class**
- **Retaliating when a fair housing complaint is filed**
- **Harassing, intimidating, threatening or coercing**
 - Sexual harassment in rental housing
 - Addressing resident on resident harassment



Housing Providers Responsible for Addressing Resident on Resident Harassment Based on Protected Class

- **When is harassment a fair housing issue?**
- **What should the provider do?**
 - Investigate and take action
 - New HUD ruling
- **Consequences for not taking action**





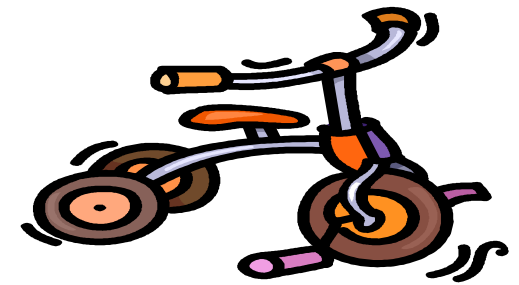
Basic Concepts

- People have the **right to choose** where they live
- Housing providers need to be **consistent**:
 - With application criteria and procedures
 - In applying rules and privileges
 - In responding to violations of the rental agreement
- The focus should always be on **actual behavior, not assumptions** (What people have actually done, not who they are)



Beware of Neutral-Sounding Policies with Disparate Impact

- No one can work in a fish cannery
- No tricycles
 - No toys on balconies
- Refusing to rent to a survivor of domestic violence





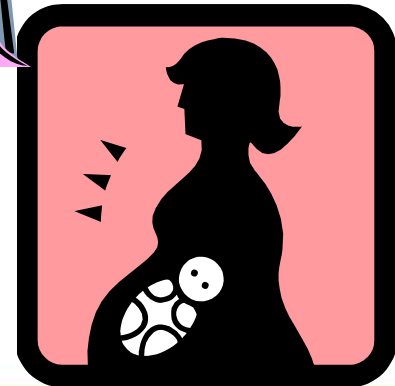
Disparate Impact & Criminal History Screening

- Disparate impact on race & national origin
- Can't say "no criminal history"
- Can't use arrest records to screen applicants
- For felony convictions, need to identify ones that would endanger residents, property
- Need to consider number of offenses; how long ago
- Individualized assessment of mitigating circumstances



Familial Status

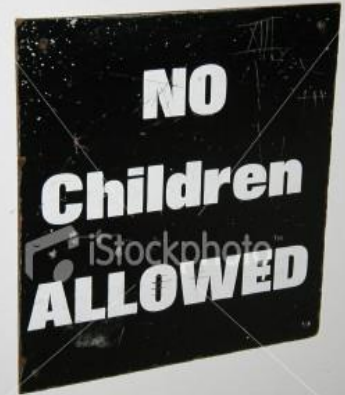
- **Definition:** “One or more individuals who are under 18 being domiciled with a parent or another with legal custody or that person’s designee and/or a person who is pregnant”
- **Exceptions**
- **It’s illegal to:**
 - Refuse to rent to families with children, toddlers, teens, etc.
 - Steer
 - To another rental or within a complex
 - Have unreasonable occupancy standards





Rules that Discriminate Against Children

- “No children in the laundry room”
- Children can’t play outside
 - They should be able to play somewhere on the property
- “Children must be supervised at all times by their parents”
 - Focus needs to be on following rental agreement
 - Tenants responsible for the behavior of their children, guests, pets, etc.

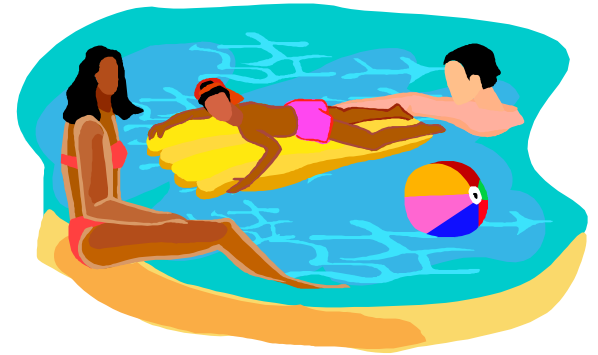


Unreasonable Rules

- Are there rules with disparate impact on children?



- Safety rules-who decides what is safe?



- This applies to all dwellings, including shelters

Disabilities

- **Definition:** Any physical or mental condition that substantially impairs a major life activity:
 - Walking
 - Seeing
 - Hearing
 - Breathing
 - Thinking/Learning
 - Self-care





The Protected Class of Disability Also Includes:

Ongoing chronic medical conditions such as:

- MS**
 - Cerebral Palsy**
 - Schizophrenia**
 - Autism**
 - Seizure Disorder**
 - Asthma**
 - PTSD**
 - ADD**
-
- Alcoholism is a disability and recovering drug addicts are protected (not current users of illegal drugs)**
 - This does not excuse any violation of the rental agreement**

Disability is Different from the Other Protected Classes

- It can be more than simply not discriminating
- A landlord may need to provide something extra to remove a barrier that would prevent the person from living there





Reasonable Modification



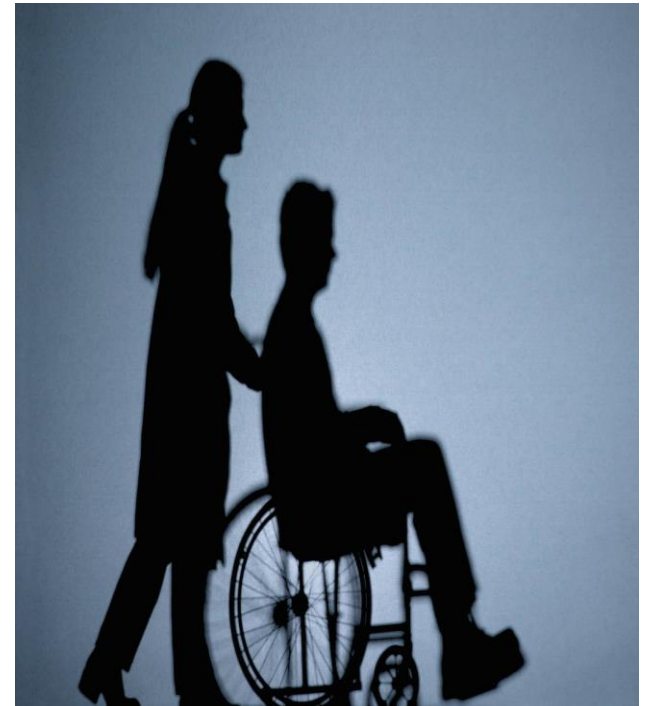
Physical change to unit





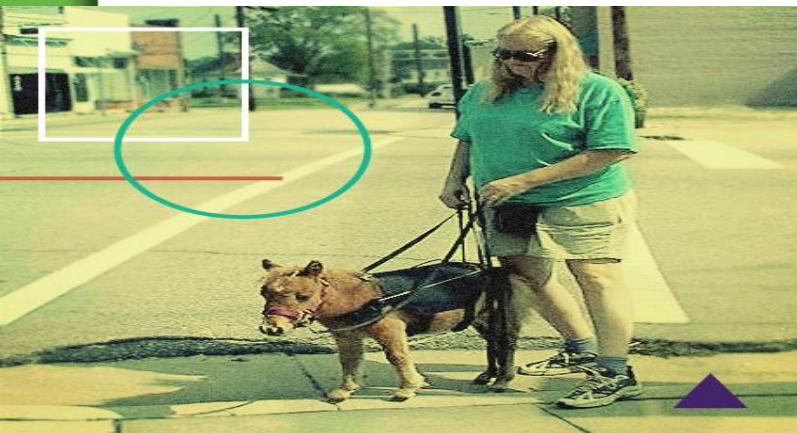
Reasonable Accommodation:

**Exception to a
standard policy,
practice or
procedure**



Some Common RAs

- Parking Spots
- Assistance Animals
- Caregivers
- Special Arrangements (late rent)





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**





The request must be reasonable

- Not too costly
- Not an undue burden
- Not part of the landlord's job description ("fundamental alteration")





Not a Direct Threat to Other Residents of the Property





Assistance Animals Can Help in Many Ways

- Balance
- Fetching things
- Blood sugar levels
- Seizures
- Migraines
- Anxiety
- Depression
- Lowering blood pressure
- Regulating heart rates
- Autism
- ADD





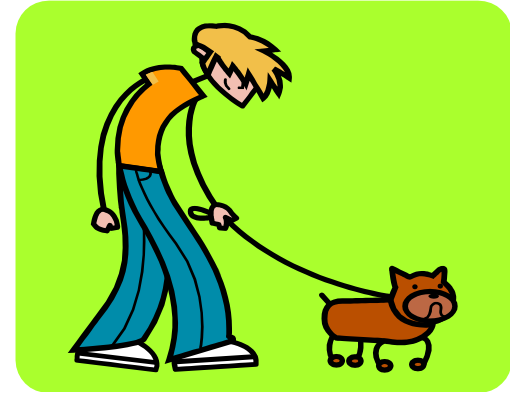
More on Assistance Animals...

- Includes certified service animals and companion animals
 - Different from public accommodations
- May be more than one animal
- Weight and breed restrictions
- Vaccinations, licensing
- Assistance animal agreements



The Request

- Is always initiated by the resident
- Can occur at any time in the tenancy/ application process





Requests Made During the Application Process

- Rental history
- Credit history
- Criminal history



The landlord reviews these requests on a case by case basis

- Applicant should be otherwise eligible
- Applicant should bring reference letters
- Applicant can be turned down if there is evidence of a danger to others

Opportunity to prepare and role play with clients

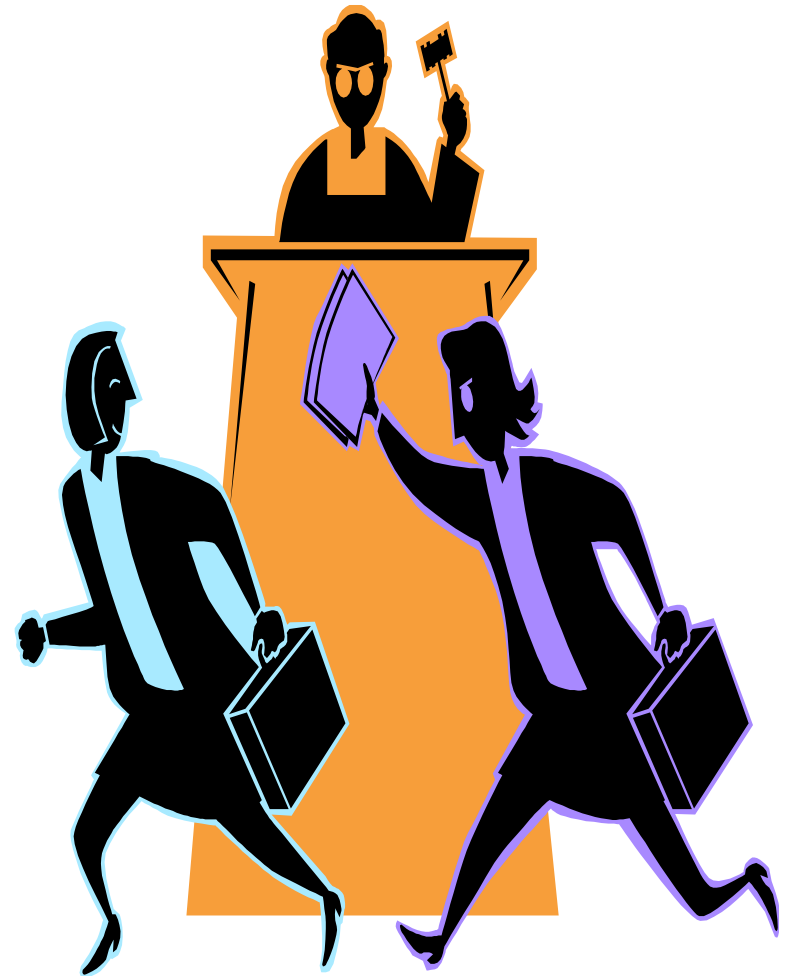
Be Aware...

- Applicants who were domestic violence victims may also request an exception to application requirements
- Landlord can ask them to verify:
 - Restraining order
 - Police report
 - Qualified third party



A resident can make a reasonable accommodation request after receiving a termination notice

- **Noise**
- **Hoarding**
- **Harassment**





How Fair Housing Laws are Enforced

- **Most commonly, FHCO is contacted first**
 - More than 2,000 calls a year...
 - 70% of the time our advocacy efforts resolve the problem
 - We can assist the client in filing a complaint
- **Next comes the 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**
- **Outcomes**





One in Ten Discriminatory Acts Reported

- Ignorance of fair housing rights
- Fear of landlord retaliation
 - Big issue in smaller communities
 - Individual can always file a complaint after moving (2 year statute of limitations)
- Fear of being reported to landlord
 - Confidentiality
- Other priorities/crises to attend to
- You can keep an eye out for red flags
 - Share info with landlords too





Getting Help

**Contact FHCO discrimination hotline at
(800) 424-3247**

- **Extension #2 for English;**
- **Extension #6 for Spanish**

**Agencies can contact FHCO directly with
questions:**

information@fhco.org

www.fhco.org

**Let us know if you'd like brochures for
your office!**

