



# Fair Housing for Housing Professionals



## PROTECTED CLASSES:

Race

Color

National Origin

Sex

Religion

Familial Status

Disability

Sexual Orientation\*

Gender Identity\*

Military Status\*\*

\*Local Protection

\*\*State Protection



# The Fair Housing Center

## **Vision**

The Fair Housing Center will be a leading visible force in preventing and correcting discriminatory practices.

## **Mission**

The Fair Housing Center is a non-profit civil rights agency dedicated to the elimination of housing discrimination, the promotion of housing choice and the creation of inclusive communities of opportunity. To achieve our mission, the Center engages in education and outreach, housing counseling, advocacy for anti-discriminatory housing policies, research and investigation and enforcement actions.

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## History of The Fair Housing Center

In 1975, The Fair Housing Center was founded on the principles of community, tolerance, and justice. It was a commitment to these principles that ignited the Women of the Old West End neighborhood association, League of Women Voters, and several other concerned citizens and community groups to establish an organization that would combat discriminatory housing practices.

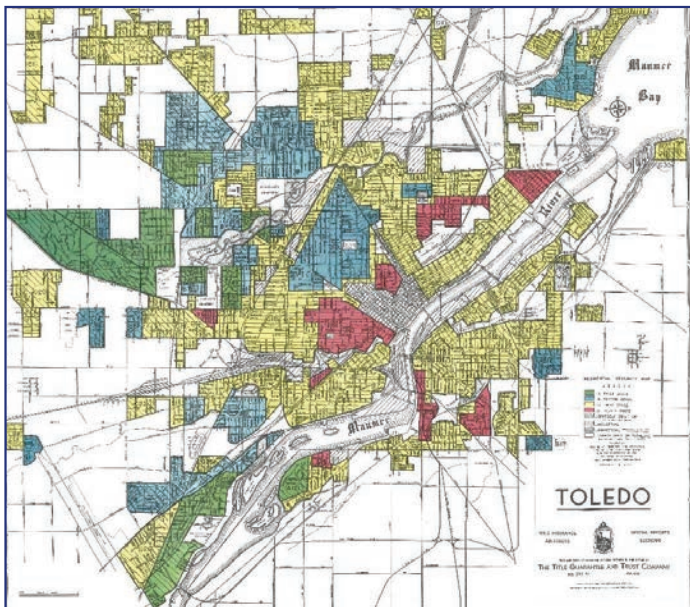
For more than 40 years, the Center has carried out its mission through the investigation of over 12,000 complaints, resulting in awards of over \$33 million for victims of discrimination. During this time, the Center has also demonstrated a talent for setting national precedents in the enforcement of fair housing laws and expanding housing opportunities for millions of Americans.

The Center conducts multiple educational outreach programs, advocates for the rights of victims, and investigates and litigates allegations of housing discrimination.

The Center's staff is one of the best in the country, and their achievements have been recognized at the local, state, and national levels.

In 1938, the Home Owners Loan Corporation, established by the federal government, created “residential security maps” for major metropolitan areas throughout the United States, including the map of Toledo, Ohio, as shown below. The map determined acceptable risk levels for real estate investments. Areas considered desirable for lending purposes were outlined in green. The second-class neighborhoods were considered still desirable and outlined in blue. Older urban neighborhoods were labeled “declining” and outlined in yellow. The last class of neighborhoods were outlined in red and considered the riskiest for mortgage support. Each neighborhood was described, often in explicitly discriminatory terms, with harmful assumptions about the area and its residents. For example, the neighborhood surrounding Collingwood, South of Door, was redlined and described as “A cheap run-down neighborhood, generally. A Government tenancy project was completed last month. Occupants are all colored...”

To this day, the impact of longstanding, and still occurring, discrimination of this kind perpetuates segregation and continues disinvestment in some neighborhoods. According to Richard Rothstein, author of *The Color of Law*, “Today’s residential segregation...is not the unintended consequence of individual choices and of otherwise well-meaning law or regulation but of unhidden public policy that explicitly segregated every metropolitan area in the United States.”



# Federal Fair Housing Laws

## Civil Rights Act of 1866

“All Citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property.”

## The Fair Housing Amendments Act of 1988

It shall be unlawful...

- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.
- (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.
- (c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.
- (d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

# Fair Housing Defined

Fair housing means **freedom of housing choice**—the right and ability to choose where one wants to live. All persons should have equal access to housing opportunities.

Housing discrimination is defined as **any attempt to prohibit or limit** a person's housing choice because they are a member of a protected class. Protected classes recognized under the Fair Housing Amendments Act include Race, Color, National Origin, Sex, Religion, Familial Status, and Disability. State law in Ohio adds Military Status as an additional protected class. Local municipal law in Toledo, Ohio adds Sexual Orientation and Gender Identity as additional protected classes.

All facets of the housing market are covered, including lending, appraisal, insurance, rental, sales, marketing, design and construction.



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# Tips for Housing Professionals

**It's important to understand how the fair housing laws impact your policies and daily practices. By becoming familiar with the following guidelines, you can maintain compliance with the law and help to ensure all individuals have equal access to housing opportunities.**

## **Advertising**

Advertising is commonly used to publicize available rental properties, homes for sale, or to market loan products. While advertisements may describe the attributes or amenities of the property or loan product, they should avoid describing the type of person who should live in the property or obtain the loan. Fair housing logos or language should be included. Photographs need to be carefully considered, and included only after consulting with an attorney.

## **Steering**

Steering occurs when a landlord or real estate agent attempts to direct a home seeker to a particular area based on their protected class. In the rental market, this includes directing particular tenants towards one section of the apartment complex. In real estate sales, this includes only showing homes in certain neighborhoods based on the race or ethnicity of the residents. Discouraging someone from living in a particular area by exaggerating drawbacks or failing to mention amenities can also be considered steering. To avoid steering, it's best to show all available properties to all home seekers. Allow the home seeker to make decisions about which properties should be viewed, or if the property is a good fit for them. In addition, housing professionals should only present facts about the property, not about the residents or neighbors. Home seekers will often inquire about the neighborhood, or ask for information about schools, crime, or demographics, but you should direct them to reliable resources such as the local school district, police, or Census Bureau to obtain this information.

## Screening/Applications

The criteria used to determine whether a person is qualified to rent or purchase a home should be objective and applied consistently to all home seekers. It's a good idea to have a written policy that contains this criteria, and it may also include occupancy guidelines, availability policy, and an outline of the application process. In order to determine if someone is a qualified applicant, questions may be asked regarding income, employment history, credit, criminal history, and rental history. The only factors that should be considered are whether the applicant can afford the property and not pose a direct threat to other residents or the property. For example, housing providers should not invoke a blanket ban on anyone with a misdemeanor or felony conviction, unless the conviction shows a demonstrable risk to resident safety and/or property. It's also important to offer the same terms and conditions to all applicants, which includes deposits or fees, lease terms, and access to amenities.

## Occupancy Standards

The federal government views a two-person-per-bedroom occupancy standard as acceptable in most situations. However, depending on how the property is laid out or the size of living spaces, this figure may change. Once the occupancy standard for a property is determined, it should be included in the written policy and applied consistently. Consult your local health department for guidance in determining this figure for your property, and you can also refer to the HUD Keating Memo for further information.



## Apartment Rules

It is acceptable for landlords to have a set of basic and nondiscriminatory “house rules” for all residents to follow. Rules must be enforced uniformly for all residents, and records regarding rule violations need to be kept. All details need to be included in the records, such as the time, date, and manner of the violation, how the landlord became aware, and what actions were taken to enforce the rule. Access to common areas (pool, gym, laundry room) should not be restricted for certain residents, such as children or persons with disabilities.

## Harassment

Any negative treatment or actions taken because of a tenant’s protected class can be considered harassment, which includes verbal or written comments, threats, or destruction of property. Sexual harassment involves unwelcome sexual advances or requests, or offers to exchange services (rent, repairs, etc.) for sexual favors. Housing providers are responsible for the behavior of their employees and agents, and it is recommended that an anti-harassment policy be created, distributed, and enforced. Tenant on tenant harassment should also be taken seriously, and any behavior that violates the resident code of conduct should be documented and appropriately addressed. Respond in a timely manner, consistently enforce the policy, and involve law enforcement or other resources when necessary.



## Record Keeping

Housing providers should keep records on all current, past, and prospective residents. A log should be used to track anyone who inquires about available properties, and updated records should be kept regarding availability. All applications should be retained, even if they were rejected or withdrawn. Contact an attorney for guidance on how long to keep records and what type of records to keep.

## Training

All employees and agents of a housing provider are required to comply with the fair housing laws, including maintenance and office staff. Owners and landlords can be held responsible for the actions of their employees. Fair housing training should be provided for all employees and incorporated into the training process for new employees. Policies should be documented and communicated to all employees, and may need to be reviewed on a regular basis.

## Eviction

Residents may be evicted for legitimate reasons, such as failing to uphold their tenant obligations. A housing provider's rules should be nondiscriminatory and enforced equally among all residents. Documentation is essential during the eviction process and may include warning letters/eviction notice, written complaints by a third party, written logs kept by management, police records, and photographs. Files should be consistently maintained for all residents.



# Commonly Asked Questions and Answers

**Q: What is the definition of a disability?**

**A:** Any physical or mental condition which substantially limits one or more major life activities, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. It also includes having a record of such an impairment or regarding someone as having such an impairment.

**Q: May the housing provider ask for details or proof that a person has a disability?**

**A:** The housing provider may ask for verification of a person’s disability if it is not obvious or otherwise known and may also verify that any request is related to that disability. If requested, the individual may provide a written statement from a licensed medical or social service professional or other third party stating that the applicant/resident qualifies as an individual with a disability. The housing provider may not ask the person with a disability or the certifying professional about the nature or severity of the individual’s disability.

**Q: What is familial status?**

**A:** “Familial status” means the presence of children under 18 in the household. This includes pregnant women and anyone in the process



of adopting or securing custody of a child/children. Children include foster children and grandchildren as long as the person has legal custody or written permission.

**Q: Are all housing providers required to allow families with children?**

**A:** Communities that qualify for the “Housing for Older Persons” exemption under the Fair Housing Act are permitted to have age restrictions if they meet certain requirements. In housing for persons 62 or older, every resident must be 62 or older, and in housing for persons age 55 or older, 80% of the units must have at least one person age 55 or older. The community must meet other requirements, including completing surveys and advertising itself as a HOPA community.

**Q: How selective may a landlord/housing provider be of prospective tenants?**

**A:** Landlords and housing providers can be very selective, as long as they use the same set of criteria for all prospective tenants. What you can’t do is choose or exclude renters on the basis of the person’s race, sex, national origin, religion, color, familial status (having children), military status,\*\* sexual orientation,\* gender identity,\* or disability.

**Q: What kinds of criteria may a landlord/housing provider use?**

**A:** Financial criteria can be used to assure the tenant will be able to pay the rent. Housing providers can also require that tenants don’t disturb other residents or damage the property. A background or credit check may be conducted, and information about rental history and references may be requested.

**Q: I’ve had a bad experience with “certain types of people.” Do I have to rent to them again?**

**A:** You must judge each applicant on his/her merit. You cannot exclude a group of people because of previous experiences with some individuals.

\*Local Protection \*\*State Protection

# Special Considerations for Tenants with Disabilities

The Fair Housing Act provides protection for persons with disabilities, which includes anyone with a physical or mental condition that significantly limits a major life activity such as walking, seeing, hearing, speaking, breathing, learning, and working. In order for a person with a disability to fully use and enjoy their home, they may require changes to an apartment or house.

## Reasonable Accommodations

A reasonable accommodation is a change, exception, or adjustment to rule, policy, practice, or service. Examples include allowing an assistance animal when there is a “no pets” policy, or creating a reserved parking space.

## Reasonable Modifications

A reasonable modification is a structural change made to the unit or premises. Examples include installation of ramps or grab bars, widening doorways, or lowering countertops. The resident typically absorbs the cost of a reasonable modification, unless the landlord receives federal funding. The landlord may require that the work be performed in a professional manner, and in some cases the resident may be obligated to pay for removal of the modification after they move out.



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## Tips for handling Reasonable Accommodations or Modifications

- Don't make assumptions about a person's disability or needs. Allow them to make a request if a special arrangement is needed.
- Create, distribute, and train all staff on the policy for handling reasonable accommodations and modifications.
- Do not inquire about the nature or severity of a person's disability.
- Requests may occur at any point during the application process or tenancy, and they may be submitted orally or in writing.
- A request should be made by or on behalf of a person with a disability. Information may be required to verify the disability and need for the accommodation, but only if this information is not known or obvious.
- A request is considered reasonable as long as it does not pose an undue financial and administrative burden on the housing provider, or result in a fundamental alteration of the housing provider's operations.
- If you deny a request because it is not reasonable, you should discuss alternative options with the tenant to reach a solution that is suitable to both parties.

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## Pet Policies and Assistance Animals

A person with a disability may use an assistance animal to help perform daily tasks or provide emotional support, thereby enabling them to function more fully and enjoy their home. Assistance animals are not pets, and may require an adjustment to your standard pet policy.

- Assistance animals should be considered similar to any other medical device – such as a wheelchair or medication – that provides treatment or support to a person with a disability.
- Create, distribute, and train all staff on the policy for handling assistance animals.
- Pet deposits and fees do not apply.
- Restrictions on size, breed, or type of animal do not apply.
- No special training or certification is required for an assistance animal.
- The tenant can request a reasonable accommodation for an assistance animal.
- Verification of the disability or need for the assistance animal can be requested if this information is not known or obvious.
- You can require that the tenant properly supervise and clean up after the animal.
- Assistance animals should not disturb or pose a threat to other tenants.
- Tenants may be required to pay for any damage caused by the assistance animal (outside of normal wear and tear).

# Fair Housing and Mortgage Lending

The Fair Housing Act protects borrowers trying to obtain a home loan from facing discrimination based on their protected class.

Lenders should avoid taking the following actions based on a person's race, color, national origin, sex, religion, familial status, disability, military status,\*\* gender identity,\* or sexual orientation:\*

- Refusing to make a loan.
- Refusing to provide information regarding loans.
- Imposing different terms and conditions, such as interest rates or fees.

## **Examples of lending discrimination may include:**

- Targeting minority consumers to market and offer loans with abusive terms and conditions (predatory lending).
- Directing borrowers to high-cost or risky loans (steering).
- Requiring that women, but not men, provide a co-signer.
- Setting minimum loan amounts.
- Refusing to offer loans in particular neighborhoods based on the protected class of the residents (redlining).
- Requiring unnecessary closing costs, inflated appraisal costs or lender fees, or excessive penalties for members of a protected class.
- In appraisal, undervaluing properties due to the protected class of the residents in the neighborhood.
- Failing to disclose the full range of available loans, or failing to mention special offers or incentives to certain protected classes.
- Applying foreclosure or collection practices more harshly because of the protected class status of either the borrower or residents in the neighborhood.
- Refusing to accept the income of a pregnant woman who is on maternity leave.

\*Local Protection

\*\*State Protection

# Lending Do's and Don'ts

## DO

- Consider reliable income, even if it is a non-traditional source of income. This includes public assistance, part-time employment, Social Security, pensions, alimony, child support, and disability or military-related benefits. You may require proof that this income is received consistently.
- Accept someone other than a spouse as a co-signer if a co-signer is needed. If they own the property with their spouse, he or she may be asked to sign documents that permit them to mortgage the property.
- Consider The Fair Housing Center's Model Banking Practices. The Fair Housing Center has developed model banking characteristics and model banking products. These include certain forms of underwriting and improved flexibility in underwriting to improve access to banking for traditionally underserved residents and neighborhoods. We encourage all lenders to strongly consider these recommendations. Further information about model banking is available on The Fair Housing Center's website at [toledofhc.org](http://toledofhc.org).



## DON'T

- Discourage someone from applying for a mortgage or reject someone's application because of their protected class.
- Impose different terms or conditions on a loan, like higher interest rate or larger down payment, based on someone's protected class.
- Discourage a person from buying because of the racial make-up of the neighborhood where they want to live or ask their plans for having a family, although you can ask questions about expenses related to their dependents.
- Require a co-signer if they meet the requirements.

# Special Considerations

- Persons who are hearing-impaired may utilize an interpreting service, and it is a reasonable accommodation to communicate with them using this method.
- Linguistic profiling occurs when a person's manner of speaking, dialect, or accent are used to infer certain characteristics about them, such as their race, national origin, or religion. When communicating via telephone, be sure not to make judgments about a person's qualifications or deny them housing based on assumptions you make when speaking to them.
- A home seeker with limited English proficiency or a heavy accent cannot be denied housing just because communication may be difficult. Make every reasonable effort to guide them through the process. Be aware of community resources that can provide translation services. If your business is located in an area with many foreign language speakers, it may be helpful to have your materials available in alternative languages.
- Except as may be required by federal law, asking for proof of documented or undocumented immigration status should be avoided since it may evidence national origin discrimination. It would be especially inappropriate if a housing provider requests this information because a person has an accent or appears foreign.



## Screening for Criminal History

Housing is a critical component of overall stability, and individuals re-entering society following incarceration are often denied housing due to their criminal history. Additionally, people of color are more likely to be disproportionately impacted by criminal history screening policies due to racial disparities in the criminal justice system.

To overcome these barriers, in 2016 HUD issued guidance for all housing providers to ensure compliance with the Fair Housing Act. Blanket bans are prohibited, and applicant screening policies and practices should incorporate the following recommendations:

- The lookback period should not be more than a few years in most cases.
- Evaluate the nature of the offense and whether it demonstrates a risk to resident safety and/or property.
- Consider each individual on a case by case basis, recognize mitigating circumstances such as rehabilitation efforts or letters of support.
- Utilize conviction records, not arrest records, as proof of offenses committed.



# Fair Housing and Design and Construction

Under the Fair Housing Amendments Act, newly constructed multi-family dwellings built after March 13, 1991, must be accessible, so persons with disabilities can fully use and enjoy their homes.

The U.S. Department of Housing and Urban Development publishes technical guidance for accessibility in housing design and construction. Some highlights include:

- Accessible common areas, including the front entrances
- Accessible routes to common areas and entrances
- Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations
- Reinforced walls in bathrooms for installation of grab bars
- Accessible kitchens and bathrooms

In addition to the federal Fair Housing Amendments Act, Ohio state law requires that alterations to existing buildings, even if they were built before March 1991, must be accessible.

O.A.C. 3404.1 and 3411.6 require developers to meet specific accessibility requirements when altering existing buildings. These requirements are enforceable under R.C. 4112.02(H)(20).



# Fair Housing Advertising Word and Phrase List

This word and phrase list is intended as a guideline to assist in complying with local, state, and federal fair housing laws. It is not intended as a complete list of every word or phrase that could violate local, state, or federal statutes. This list is intended to educate and provide general guidance to the many businesses that create and publish real estate advertising. This list is not intended to provide legal advice. By nature, a general list cannot cover particular persons or situations or questions. The list is intended to make you aware of and sensitive to the important legal obligations concerning discriminatory real estate advertising. For more information please contact The Fair Housing Center.

## Not acceptable and cautionary words and phrases:

Able bodied	Ethnic references	Single person	One person
No African	No group homes	Sixty-two or older community*	Preferred community
No Appalachian	Hindu	No Spanish speaking	Religious references
No bisexuals	No Hungarian	No supplemental security income	Retirement home
No Chicanos	No Irish	Traditional neighborhood	Secluded
Colored	Exclusive	Two people	Senior citizens*
No crippled	Adults only	No wheelchairs	Sex or gender**
Empty nesters	No alcoholics	Woman (women) only**	Single man or woman**
No gays	No retarded	Male roommate **	Snowbirds
Not for handicap	Muslim	Mature	No students
No HIV	Bachelor pad	Mature person(s)	Near temple
No Indian	Caucasian	No mentally ill	Tranquil setting
Jewish	Near churches	No military	Within walking distance of...
Female roommate**	Couple only	Nationality	Males only**
Adult community	Must be employed	One child	White(s) only
Agile	No families	Perfect for... should not describe people	Mature complex
No American Indians	No handicap parking	No play area	No Mexican American
No blacks	No Hispanics	Quality neighborhood	Mosque
No children	No impaired	Ideal for...should not describe people	Near
Congregation	No Italian	Senior adult community*	# of children
No deaf	Executive	Seniors*	No oriental
English only	No Latino	Singles only	No Filipinos or
Retirees	No lesbians	No unemployed	Filipinos Restricted
Golden agers only	Man only**	White	Safe neighborhood
Healthy only	Mature individuals	Men only**	No section 8
No homosexuals	No mentally handicapped	Mature couple	Senior discount
Integrated	No migrant workers	No Mexican	Shrine
Gender	Landmark reference	Membership approval required	Sophisticated
Females only**	No negro	Mormon temple	Near synagogue
Adult living	Older person(s)	Nanny's room	Description of tenant
No AIDS	Parish	# of persons	Winter/summer visitors
Asian	Physically fit		No transgenders
No Blind	No Puerto Rican		55 and older or housing for older persons/seniors*
Chinese	School name or district		
Couple	Secure		
No disabled	Senior housing*		

\* Permitted to be used when complex or development qualifies as housing for older persons.

\*\* Permitted to be used only when describing shared living areas or dwelling units used exclusively as dormitory facilities by educational institutions.

# Best Practices for Housing Professionals

- Treat all applicants alike regardless of race, color, religion, national origin, sex, disability, military status, \*\* sexual orientation, \* gender identity, \* or family status.
- Set reasonable eligibility criteria.
- Establish the same criteria and income requirements for all applicants.
- Establish the same terms and conditions (deposits, etc.) for all applicants.
- Show all available properties to all prospects.
- Never discourage applicants from applying or suggest they would be happier living elsewhere.
- Do not refuse to rent/sell to families with children unless the community qualifies for the “Housing for Older Persons” exemption under the Fair Housing Act.
- Establish a procedure for responding to requests for reasonable accommodations and modifications.
- Review all marketing materials and advertisements to ensure that there is no suggestion of a preference, limitation, or discrimination based on protected class.
- House rules should be basic and non-discriminatory.
- Keep records on all prospective residents, in addition to current and past residents.
- Train new employees about fair housing laws and how to comply with them.
- Call The Fair Housing Center, 419-243-6163, if you have questions.

\*Local Protection

\*\*State Protection



**The Fair Housing Act makes it illegal to discriminate against someone because of their:**

- Race
- Sex
- Religion
- Color
- Familial Status
- Sexual Orientation\*
- National Origin
- Disability
- Military Status\*\*
- Gender Identity\*

\*Local Protection

\*\*State Protection



The Fair Housing Center

419-243-6163  
toledofhc.org

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