

### General Fair Housing Training

#### Policies and Procedures

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### Mission

Founded in 1983, the **Equal Rights Center** is a **civil rights organization** that identifies and seeks to eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of greater Washington, D.C. and nationwide.

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### ERC Services

#### Programs

- Fair Housing
- Disability/Accessibility
- Public Accommodations
- Employment
- Corporate Partnerships & Training

#### Activities

- Education and Outreach
- Compliance Services
- Civil Rights Testing
- Counseling and Advocacy

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## Fair Housing

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## Fair Housing



The sale and rental of housing **free from discriminatory** practices or policies, while continuing to treat everyone **equally** and with respect

**Why is it important?**

- Moral Responsibility
- Civil Rights Law
- Smart Business!




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## Fair Housing Act History



- Fair Housing Act was signed into law in 1968
- It was amended in 1988 to create additional protected classes
- Why is the year **1968** significant?

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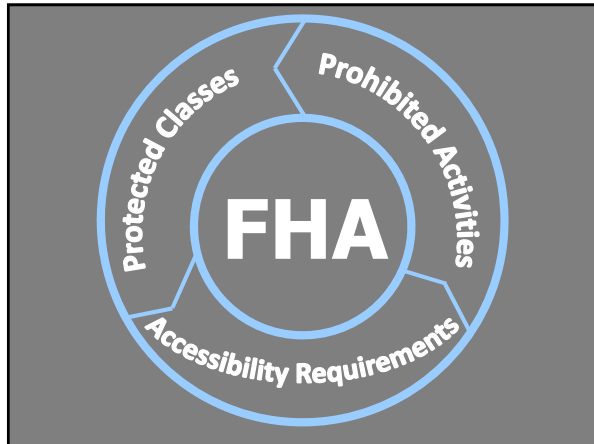
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### What's Covered?



**“...any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.” 42 U.S.C. §3602(b)**

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### Examples



- Apartments
- Condominiums
- Emergency Shelters
- Transitional Housing
- Single Family Housing
- College Dorm Rooms
- Manufactured/Mobile Homes
- Nursing Home/Assisted Living
- Vacant Land Designated for Residential Construction

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## Who is Covered?



Anyone who has been harmed as a result of discrimination in a housing activity may file under one or more of the protected classes, including a person who:

- is directly harmed
- associated with someone who is directly harmed
- Participated in an investigation as a witness and was harmed
- opposed an illegal housing practice and was harmed

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## Who isn't Covered?



**Small Landlord Exemption:** The owner does not possess more than three single-family houses at any one time.

- Does not hire a real estate agent
- Does not make a discriminatory ad or statement

**Mrs. Murphy Exemption:** Applies to buildings with four or fewer units and the owner lives in one of the units. Owner still cannot make a discriminatory statement or ad.

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## Protected Classes

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## Protected Classes



- A group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic.

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## Protected Classes Federal



- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Disability



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## Protected Classes State or Local



- Individual states have extended the federal protections by adding more classes to their state acts
- Other classes may be protected in certain counties or cities
- It is up to each individual to learn the protected classes in their state and local area

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## Virginia



- **Statewide**
  - Elderliness
- **City of Alexandria**
  - Sexual Orientation
  - Ancestry
  - Marital Status
  - Age
- **Arlington County**
  - Marital Status
  - Sexual Orientation
- **Fairfax County**
  - Marital Status
- **Falls Church**
  - Marital Status
- **Prince William County**
  - Age
  - Marital Status

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## Violence Against Women Act (VAWA)



Housing providers who receive federal funding are prohibited from denying **“assistance, tenancy, or occupancy”** to any person because of a domestic violence-related activity committed by a household member, guest or “other person in control” of the tenant if the tenant or an “affiliated individual” is the victim.

U.S. Department of Justice

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## Use of Criminal Records Checks



- Prospects with a felony were prohibited from continuing with the application if they disclosed their history.
- Housing providers should consider:
  - **Whether or not a conviction occurred**
  - **Nature/Severity of the crime**
  - **The timeframe of the crime or the age of the applicant when crime occurred**
  - **Evidence of rehabilitation efforts**

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## HUD Guidance



- "...while having a criminal record is not a protected characteristic under the Fair Housing Act, criminal history-based restrictions on housing opportunities violate the Act if, without justification, **their burden falls more often on renters or other housing market participants of one race or national origin over another.**"
- A Fair Housing Act violation occurs when a housing provider treats individuals **with comparable criminal histories differently because of race (or some other protected characteristic)**

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## Blanket Ban Example



Have you are any other applicant or occupant ever been convicted of a felony? i

Yes ▾  
No  
Yes

We are unable to lease to anyone who has been convicted of a felony. Should you have any questions, please contact the leasing office for this community.

Save

Save & Continue



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reslising.securecafe.com says:

We are unable to reserve an apartment for you at this time due to your answer regarding Felony convictions. Should you have any questions, please contact the leasing office for this community.

OK

Have you are any other applicant or occupant ever been convicted of a felony? i

Yes ▾

Save

Save & Continue



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## Prohibited Activities



- Refuse to Sell or Rent
- Enforce/offer discriminatory terms and conditions
- Advertise a discriminatory preference
- Misrepresent availability
- Engage in blockbusting or steering
- Harass, threaten, intimidate, coerce
- Retaliate

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## Advertising



- It **always** a violation of the FHA to “make, print, or publish” any discriminatory ads
- Designed with the entire MSA in mind
- Do not use religious references
- Submit advertisements to Sales Manager for review
- Focus on the property and not the person
- Monitor social media advertisements
- Use of the Equal Housing Opportunity logo or statement

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## Equal Housing Opportunity



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## Scenario

You have heard from several residents that two children living in 3B have been violating the noise policy of the building.



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## Response

- Do not let people with children feel as though they are being treated differently
- Do not specifically mention children as the source of the problem to the resident
- Inform the resident of the noise policy (e.g. no loud music after 10pm)
- If it persists, tell the resident that everyone is expected to uphold the terms of the lease



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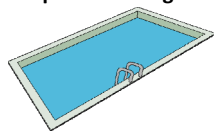
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## Pool Rules

- Pool hours are from 9:00 AM – 7:00 PM
- No diving!
- No running!
- No glass bottles!
- No children under the age of 18 unless accompanied by their parents or legal guardian!



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## Pool Use Rules



- A rule preventing unsupervised children under the age of 18 is not an efficient method of achieving pool safety
- Younger children could be better swimmers
- 16 and 17 year olds could be lifeguards
- Check local laws – DC suggests 15. Other areas say 14.
- Be wary of using the phrase “Legal Guardian”

*INIESTRA V. CLIFF WARREN INVS., INC.*

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## Scenario



A woman enters the leasing office and speaks only Portuguese. She has a young daughter with her who is serving as an interpreter. You have concern that you are not being understood.



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## Response



- Know what languages are commonly spoken in your area and make a plan for how to serve individuals who speak those languages
- Determine who speaks languages other than English in your office
- Gather contact information for interpreters
- Be patient and calm if there is a wait for a coworker or interpreter

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## Disability & Housing



- 57 million Americans are living with disabilities
  - 23 million with mobility impairments
- 36% of Americans 65 and older live with a disability



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## Disability Etiquette



- Ask before you help
- Be sensitive about physical contact
- Speak directly to a person with a disability
  - Not to his companion or interpreter
- Think before you speak
- Don't make assumptions
- Respond graciously to requests

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## Disability Defined



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

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## Types of Disability



- Mobility Disabilities
- Developmental Disabilities
- Intellectual Disabilities
- Mental Health Disabilities
- Sensory Disabilities
- "Hidden/ Invisible" Disabilities

**These are not mutually exclusive; can fall into more than one category**

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## People First Language



- Refer to the person first and his or her disability second
- Use "disability" as opposed to "handicap"
- Do not use terms such as afflicted, suffering, and stricken
- Exceptions for Deaf and others
- Note that terminology changes and not every person in a group will agree with these terms




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## People First Language



Wheelchair  
bound woman

- Not people first
- Not respectful language (bound)

**Woman who uses  
a wheelchair**

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## Disability Protections



The FHA allows for residents to request for **reasonable accommodations** and **reasonable modifications** if such changes will afford the person full enjoyment of their living situation.

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## Reasonable Accommodations



Changes in rules, policies, practices, or services that give a person with a disability equal choice in housing.

- Assisting a resident who is Deaf by writing or typing a conversation
- Allow a parking assignment where generally there is none

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## Assistance Animals and the FHA



Service animals are trained to provide a specific task, while companion animals, used mostly for emotional support, are not necessarily trained. **Under the FHA, there is no difference.**

- No formal training or certification needed
- No special harness or vest necessary
- Can be any breed/size
- They do not have to be dogs
- Assistance animals are not pets!

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## Manager's Responsibility



- Property Manager may not charge an additional fee such as pet deposits, additional security deposits, increased rent, etc.
- Allergies and/or fears of dogs are not valid reasons for dismissing a assistance animal from any community
- Remember that disabilities may not be visible, in which case you may verify that the requestor has a disability

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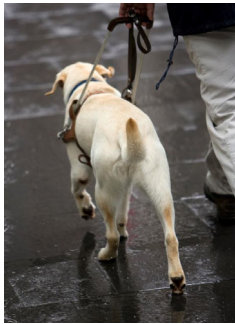
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## Owner's Responsibilities



- Animals must not pose a threat to other residents or property
- Residents must follow "pet" rules that may include: leash usage, clean up and general control of animal
- Residents are financially responsible for any property damage

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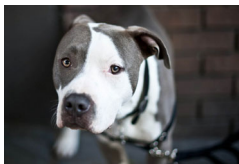
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## Scenario



- An apartment complex has a list of breed restrictions that includes Pit bulls.
- A tenant requires the use of an assistance animal that happens to be a Pit Bull.
- How should the agent respond?



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## Response



- This is a reasonable accommodation.
- Assistance animals are not pets.
- Breed Restrictions do not apply.



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## Scenario



- A prospect has a misdemeanor conviction within the last seven years and is rejected from an apartment complex on the basis of this conviction.
- The prospect and his family appeal this decision and ask the apartment complex to grant a reasonable accommodation as his disability caused the incident.
- What should the housing provider do?

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## Response



- The FHA does not always require accommodations for a conviction allegedly caused by a disability (it indeed never requires an accommodation for those convicted of certain drug crimes).
- However, housing provider should have done more.
- The incident was due to a psychiatric episode, which the prospect was treated for, and a doctor ruled he would be unlikely to disrupt the community again.

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## Reasonable Modifications



Structural changes made to units or common use areas to afford a person with a disability full use and enjoyment of the dwelling.

- Lowering countertops
- Installing ramps
- Installing grab bars

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## Modifications to Common Use Areas



- Reasonable modifications are not limited to units; also permitted in common and public use areas
- In common areas, residents are responsible for the cost of modifications, but not for maintenance or removal
  - Adding railing in a hallway of a rec room
  - Building a ramp along a community route

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## Modifications Post-tenancy



- Residents may be asked to restore the unit to its original condition when “reasonable” to do so
- Residents should not be asked to restore modifications that do not affect the subsequent tenant’s use or enjoyment of the unit
- Housing providers may NOT require modifications made to the exterior of dwelling units or common areas to be restored

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## Policies and Procedures



- A resident may be able to make a request in writing or orally
- Provider may not inquire as to the nature or extent of the disability
- Review each request on a case-by-case basis
- May not pass information about a person's disability to a third party
- Resident need not use the term "Reasonable Accommodation" or "Reasonable Modification"

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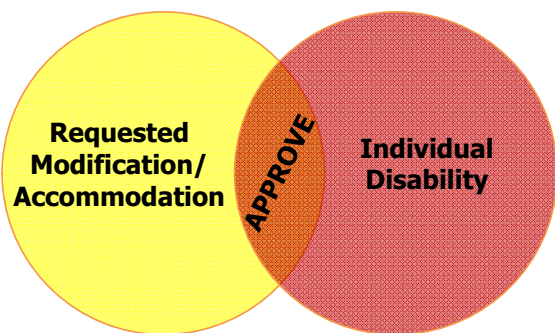
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## Assess Reasonable Accommodations & Modifications




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## Verification Process



- Verification as to whether the person has a disability  
IF the disability is not visible
  - Can be verified by self, third party, medical professional
- Description of the needed modification or accommodation
- Demonstrated relationship between the person's disability and the request

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## Denial of a Request



- If there is no disability related need for the accommodation.
- If it would impose an undue financial and administrative burden on the housing provider
- Fundamentally alter the nature of the provider's operations.
- Pose a threat to the health or safety of other residents.

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## Scenario



A resident who is hard of hearing requests that you communicate in writing.



- Is this a RA or RM?
- Should you approve this request?

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## Procedure



**Yes!**

- Communicating in writing is an example of a reasonable accommodation
- You may also offer interpretation services if you fear that you are unable to express all necessary information
- Services required for effective communication may include written or computer screen notes, sign language interpreters, or large print or braille materials

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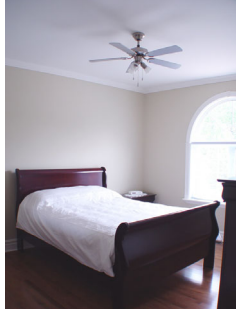
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## Scenario



A resident who is blind asks his property manager to permit him to install a ceiling fan in his bedroom because he prefers more air circulation.

- Is this a RA or RM?
- Should you approve this request?



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## Procedure



**No!**

- This request does not meet the requirements of a reasonable modification
- There must be an identifiable nexus between the request and the disability
- Allow the person to make request, then send to upper management for consideration

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## Scenario



A resident who uses a wheelchair asks for permission to widen doorways, remove kitchen cabinets, and remove thresholds in her unit.

- Is this a RA or RM?
- Should you approve the request?



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## Procedure



### Yes!

- Each of these changes would be considered a reasonable modification and should be granted by the property manager
- You may require the resident to pay for the cost of the modifications and require that the work is done by a licensed contractor with liability insurance
- Can require the resident to restore the unit to its original condition at the conclusion of tenancy

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## Scenario



A resident with depression requests a designated parking spot.

- Is this a RA or RM?
- Should you approve this request?



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## Procedure



### No!

- This request does not meet the requirements of a reasonable accommodation
- There must be an identifiable nexus between the request and the disability
- Allow the person to make request, then send to upper management for consideration

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## Parking as a Reasonable Accommodation



- Staff need to be mindful of reasonable accommodation parking requests that require creating signage, repainting markings, or creating curb cuts.
- Courts have ruled that even these are reasonable *accommodations* and therefore are at the cost of the landlord/property manager.

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## Scenario



A prospect has PTSD and has a companion dog. The prospect has found a building, but it happens to only allow cats for a non-refundable pet deposit. What should the prospect do?

Is this a RA or RM?

Should a dog be allowed?




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## Procedure



**Yes!**

- Breed restrictions/animal type does not matter with assistance animals under the FHA.
- Allowing assistance animals is considered a reasonable accommodation
- No "pet fee" and no additional deposit may be charged
- Property managers can request verification of disability before approving the assistance animal

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## Equal Professional Service



Giving each prospect the same type and caliber of service and information, and the same access to all housing opportunities

- Maintain a professional demeanor
- Provide similar materials and treatment
- Provide only factual information
- Avoid steering!
- Promote equal qualification standards
- Manage high volume

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## What's the neighborhood like?



- Acknowledge the interest or concern of the prospect
- Allow prospects to make their own choices based on factual information
- Beware of tone when answering or refusing to answer certain questions
- Inform prospects in a positive manner your duty to comply with Fair Housing and suggest that they consult objective resources

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## Question One



A prospect enters the office and asks, "What type of people live in this community?"



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## Best Practices



- Acknowledge the prospect's interest in learning about the community
- Do not answer questions about the demographics of the building or neighborhood
- Suggest that the prospect tour the neighborhood at various times of the day/week and observe the demographics
- Refer the prospect to any objective, third-party demographic resources such as Census Data or County census data

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## Question Two



A prospect enters your office and asks, "Is this neighborhood safe?"



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## Best Practices



- Do not answer questions about the safety of the building or the neighborhood
- Do not offer your own opinion about the safety of the area or building
- Encourage the prospect to visit the neighborhood at various times of the day/week
- Refer the prospect to the Crime Statistics Analysis Division of the local Police Department, or to crime aggregators of a local newspaper

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### Question Three



A prospect enters your office and says, “What school district is this community located in – are the schools any good?”



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### Best Practices



- You may disclose what school district the property is zoned to, however, you should remind all prospects that school districts are often re-zoned
- Do not engage in conversation about the quality of schools in the area
- Provide the names and contact information for officials at the public schools
- Refer the prospect to any published, objective information about local schools

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### Question Four



A prospect enters your office and asks, “What churches are around?”



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## Procedure



- Do not engage in conversations about places of worship, or assume individuals belong to a certain religion
- Refer the prospect to Google or encourage the prospect to drive around the neighborhood
- Provide objective, factual information to the prospect regarding their place of workshop
- Do not maintain lists of local places of worship

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## Fair Housing

### How to Remain Compliant



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## Best Practices



- Always provide Equal Professional Service
- Lead prospects to objective information sources
- Monitor local and state protected classes
- Standardize your qualification processes
- Do not disclose the nature of a resident's disability or membership in a protected class
- Promptly respond to requests for reasonable accommodations and reasonable modifications

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## Best Practices



- Display Fair Housing Posters prominently
- Create an office log and document unusual interactions with tenants or prospects
- Report suspected discrimination immediately
- Ensure that your leasing office is accessible to people with disabilities




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## Evictions in Virginia




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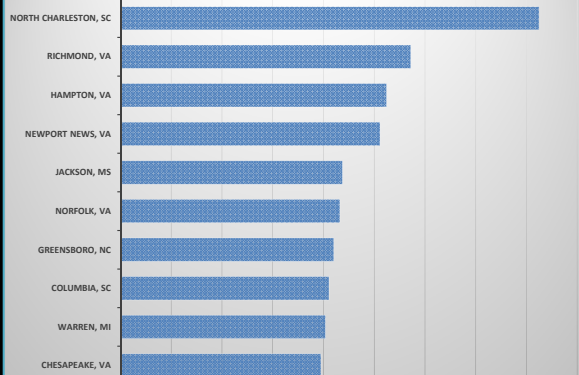
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Top Evicting Large Cities in the United States



Data from Eviction Lab

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## Virginia -Ease of Eviction



- In Virginia, landlords only have to give tenants 5 days prior to filing for eviction.
- For comparison – in DC, tenants have 30 days.
- In DC, tenants can argue that a landlord didn't keep the unit in good condition.
- In Virginia, this is only allowed if a resident can pay all back-due rent.

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## Eviction and Race



- 50% of majority-black census tracts in VA have eviction rates higher than 10%
- African Americans have lower homeownership rates
- Pay higher rent rates on average than white counterparts

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## Eviction and Disability



- Persons with disabilities cannot be evicted because of their disabilities or actions that result from them (unless they are a direct threat to other residents).
- Do NOT have to show landlords medical records or answer questions re: their disability.
- Cannot be evicted for reasonable modification or accommodation requests

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## Scenario



- James is arrested for threatening a neighbor. His apartment complex prohibits threats. The apartment complex investigates and issues James a 30-day notice.
- James contacts the apartment complex and says he has a disability that causes him to become disruptive if he stops taking his medication.
- James requests a reasonable accommodation to overlook the "No Threat" policy and agrees to work with a medical provider to ensure he takes his medicine.

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## Response



- A reasonable accommodation is a change to a rule, policy, or practice.
- Since James is willing to submit to monitoring to ensure he takes his medicine – he should not be considered a threat to others.
- If James would refuse – the housing provider could continue with the eviction process.

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## Eviction and National Origin



- Waples Mobile Home Park in Fairfax County
- Evicted tenants who did not have a Social Security number.
- Court ruled this policy has a disparate impact on Latino Tenants
- Facially-Neutral policy that impacts members of a particular protected class.

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### Eviction and Familial Status



- Evicting someone because of their family status is illegal
- Evicting someone because they had an additional child or become pregnant during tenancy is illegal
- Be aware of local occupancy codes
- Local occupancy codes may also not include babies under a certain age

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### Evictions and Domestic Violence



- Survivors of Domestic Violence make up over 10% of evictions and over 25% of housing denials.
- Nuisance Rules – Evicting a tenant for having the police called too many times.
- Can be a community law or a rule by a housing provider.
- These rules disproportionately impact survivors of domestic violence.

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### Evictions and Criminal Record



- Health and safety of other residents
- Disparate Impact
  - People of color are overrepresented in the criminal justice system.
    - Blanket bans/evictions would impact these populations.
- Differential Treatment
  - If a housing provider is evicting someone due to criminal record, it should be enforced consistently.

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## Harrassment



- HUD Guidance on Harassment
- Housing providers can evict residents for harassing other parties.
- However providers should not threaten or harass residents with evictions.

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## Resources



### Equal Rights Center

- [www.equalrightscenter.org](http://www.equalrightscenter.org)
- 202-234-3062

### U.S. Department of Housing and Urban Development

- [www.hud.gov](http://www.hud.gov)
- 202-708-1112

### Available HUD Guidance

- Reasonable Accommodations
- Reasonable Modifications
- Service and Companion Animals
- HUD LGBT Rule
- Gender Identity Rule

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**Thank You!**

**Questions or Comments?**

**Evaluations!**

[www.equalrightscenter.org](http://www.equalrightscenter.org)

202-234-3062



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