

Idaho Legal Aid Services Fair Housing Presentation



Building Capacity to Address Fair Housing Issues in Our Communities

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- I. Introduction to the Fair Housing Act
- II. Advice and Assistance for Housing Providers
- III. Advice and Assistance for Residents/Tenants
- IV. Taking Corrective Action
- V. Best Practices: Limited English Proficiency and Analysis of Impediments

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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)
- *Sexual Orientation and Gender Identity*



Current Trends

- Some fair housing “red flags” and trends we are seeing that you can be on the look-out for:
 - Asking a person with a disability for proof of income above and beyond what you request of other tenants.
 - Asking a minority or person from another country to have a co-signor on a lease or loan even though their income is high.
 - Manufactured home park charging extra for children b/c they use more water, electricity, etc.
 - Tenants being asked to sign leases that are not in their primary language without a translation or interpreter being made available.
 - Charging a pet deposit for an assistance animal documented by proof of need letter.
 - Refusing to rent to an unmarried couple, or to two men could run afoul of the new prohibition against discrimination based on sexual orientation or gender identity.

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 disabled person 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

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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 disabled tenant



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Landlords Cannot:



- 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

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Landlords May:

- Check references
- Check ability to pay rent
- Inquire on how best to make reasonable accommodations for prospective tenant
- Create rules for benefit of entire community
 - Given rules are not discriminatory

How Can You Assist Housing Providers?

- Give providers referrals to the Idaho Legal Aid Fair Housing hotline: 1-866-345-0106
- Make sure providers have access to up to date information regarding Fair Housing laws and guidance
 - www.hud.gov
 - www.idaholegalaid.org (Fair Housing Portal being launched this Spring)
- Encourage providers to keep detailed and meticulous records
- Encourage providers to adopt and utilize the Fair Housing Act's Equal Housing Opportunity Logo and nondiscrimination statement .

What Providers Need to Know

- Advertising: market the property & its amenities rather than placing an ad that seeks to attract a certain type of tenant.
- Screening Applicants: it is best to have a standardized, written procedure in place and keep detailed records of all applicants
- Steering: do not suggest certain types of properties or mention types of people that live around a property
- Lease: use standardized terms and rules

What Providers Need to Know, ctd.

- Reasonable accommodation requests: engage in the interactive process
- Evictions/Terminations: avoid the appearance of discrimination by:
 - Clearly documenting the reason for termination of the lease, and
 - Providing a statement of the reason for the termination to the tenant, especially when requested.

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How Can You Assist Residents/Tenants?

- Give residents and tenants referrals to the Idaho Legal Aid Fair Housing hotline: 1-866-345-0106
- Make sure residents and tenants have access to up to date information regarding Fair Housing laws and guidance
 - www.hud.gov
 - www.idaholegalaid.org (Fair Housing Portal being launched this Spring)
- Make sure residents and tenants know what to do and who to contact if they have suffered housing discrimination

What Residents and Tenants Need to Know

- The Fair Housing Act provides equal access to all in the purchase, rental, and use and enjoyment of a home
 - Do not allow FHA violations in advertising, screening, lease terms, etc deter you away from a home you want – report the violation!
- Residents and Tenants need to know the process for filing a fair housing complaint with HUD
 - Complaint form available online at www.hud.gov, or
 - By calling 1-800-669-9777
- A provider cannot retaliate against you for exercising your fair housing rights
- If you are a person with a disability, you can:
 - Ask for a reasonable modification
 - Ask for a reasonable accommodation

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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 it 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
 - 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

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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.



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Consolidated Plans

- A document written by a State or local government describing the housing needs of the low- and moderate-income residents, outlining strategies to meet the needs and listing all resources available to implement the strategies. This document is required to receive HUD Community Planning and Development funds.
- Must be done every 5 years
- Community participation is critical: the Plan is intended to involve substantial citizen participation and be a collaborative effort by the community as a whole

Affirmatively Furthering Fair Housing

- Communities must certify that they will affirmatively further fair housing as a condition of receiving Federal funds.
- As part of the certification to affirmatively further fair housing, jurisdictions must assume the responsibility of fair housing planning by conducting an analysis of impediments (AI) to fair housing choice.
- Each jurisdiction should maintain its AI and update the AI annually where necessary. The beginning of a new Consolidated Plan five-year planning cycle is often when the AI gets updated.

Analysis of Impediments

- The Consolidated Plan regulations (24 CFR 91) require each state and local government to: submit a certification that it is affirmatively furthering fair housing. This means that it will:
 - (1) conduct an analysis of impediments to fair housing choice;
 - (2) take appropriate actions to overcome the effects of impediments identified through that analysis; and
 - (3) maintain records reflecting the analysis and actions.
- Fair Housing Planning Guide provides information on how to conduct an AI, undertake activities to overcome identified impediments and maintain documentary records.
<http://www.hud.gov/offices/fheo/images/fhpg.pdf>

Analysis of Impediments

- Impediments to fair housing choice are defined as:
 - Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin that restrict housing choices or the availability of housing choice
 - Any actions, omissions, or decisions that have this effect.

Analysis of Impediments

- A Jurisdiction's Analysis of Impediments Must Include:
 - An extensive review of a State or Entitlement jurisdiction's laws, regulations, and administrative policies, procedures, and practices;
 - An assessment of how those laws affect the location, availability, and accessibility of housing;
 - An evaluation of conditions, both public and private, affecting fair housing choice for all protected classes; and
 - An assessment of the availability of affordable, accessible housing in a range of unit sizes.

Analysis of Impediments

- HUD strongly encourages State and Entitlement jurisdictions to become familiar with all studies that apply to their community and region as a first step in planning an AI
- Examples of common impediments previously studied:
 - Problems faced by immigrant populations whose language and cultural barriers combine with a lack of affordable housing to create unique fair housing impediments
 - Availability of accessible housing
 - Problems faced by Section 8 Certificate & Voucher holders in exercising opportunities to select housing on a city-wide basis
 - Problems faced by Blacks and Hispanics in securing home loans
 - Problems of providing housing for persons with disabilities in residential neighborhoods

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HUD's Tips

- The AI may identify poor housing conditions without going far or deep enough into factors that have made those conditions more severe for certain groups in the lower-income population than for others. Jurisdictions should be aware of the extent to which discrimination or other causes that may have a discriminatory effect play a role in producing the more severe conditions for certain groups.
- Ensure that diverse groups in the community are provided a real opportunity to take part in the process of developing action plans to eliminate impediments
- Government officials should exercise an appropriate level of leadership to resolve conflicts and oversee the implementation of corrective actions, changes, or additions in fair housing actions.

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How To Get Involved

- Who must do Consolidated Plans and AI's?
 - State of Idaho, Boise, Coeur d'Alene, Idaho Falls, Lewiston, Meridian, Nampa, Pocatello
- Review your City's Consolidated Plan and Analysis of Impediments
 - Visit:
<http://www.hud.gov/offices/cpd/about/conplan/local/id/> to review the Consolidated Plans AI's for Idaho
- Follow up with the City to offer assistance, advice, and feedback on whether the impediments identified are being adequately addressed by the City's Action Plan

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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

Idaho Legal Aid Services

(208) 345-0106 in Boise

or 1-866-345-0106 (toll-free)

www.idaholegalaid.org

Intermountain Fair Housing Council

(208) 383-0695 in Boise

-or-

1-800-717-0695 (toll-free)

Web Resources:

• www.fairhousinglaw.org

• www.nationalfairhousing.org

• <http://fairhousing.jmls.edu/>

• <http://www.usdoj.gov/crt/housing/>

• www2.state.id.us/ihrc/about.htm

• www.hud.gov

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Additional Training is Available to You

Please contact Sunrise Ayers at 208-345-0106, ext. 1511 or at sunriseayers@idaholegalaid.org to schedule additional Fair Housing presentations or trainings for staff, providers, tenants, or the public.

Thank you!