

# Housing Discrimination is Illegal

Important information about the federal Fair Housing Act.



Housing discrimination is against the law. One way to stop discrimination is to report it.

The federal Fair Housing Act prohibits discrimination in housing-related transactions because of race, color, religion, national origin, sex, disability or familial status. Many state and local laws also prohibit housing discrimination based on several additional protected classes.

The Fair Housing Act applies to a wide variety of housing transactions including rentals, sales, home mortgages, appraisals and homeowners insurance. Landlords, real estate agents, lenders, insurance companies and condominium, cooperative and homeowner associations must not discriminate because of one's membership in a protected class.

The Fair Housing Act requires that all multifamily dwellings designed and constructed for first occupancy after March 13, 1991 are to be accessible to and usable by people with disabilities. Multifamily dwellings are all units in buildings containing four or more units with one or more elevators, and all ground floor units in buildings containing four or more units without an elevator.

## Some Signs of Possible Discrimination

- The housing provider who discussed the housing opportunity on the phone is no longer available for an in-person visit.
- The housing provider refused to sell, rent or show available housing or charged a higher security deposit.
- Advertisements expressed a preference for singles or couples, but the community does not qualify as housing for older persons.
- Families with children or persons with disabilities were limited or steered to certain buildings or to the first floor.
- The housing provider:
  - Failed or delayed to make repairs or maintain the property.
  - Limited the use of services or facilities or privileges.
  - Refused to make a reasonable accommodation or allow a reasonable modification for a person with a disability.

## Lenders, Appraisers and Insurance Companies May Not Discriminate

Home mortgages and personal loans for housing-related purposes are covered. No one may do any of the following because of race, color, religion, national origin, sex, disability or familial status of the applicant:

- Refuse to provide information regarding loans.
- Provide inaccurate or incomplete information.
- Refuse to make a loan to a qualified applicant.
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees unrelated to credit history.
- Discriminate in appraising property.
- Refuse to issue a homeowner's or renter's insurance policy.

## Commonly Asked Questions and Answers

### Must all landlords comply with the Fair Housing Act?

The Fair Housing Act covers most housing. In some circumstances, the Fair Housing Act exempts owner-occupied buildings with no more than four units. Communities that qualify for the "Housing for Older Persons" exemption under the Fair Housing Act are permitted to exclude families with children under the age of 18.

### What is the definition of a disability?

A disability is a physical or mental impairment that 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 a record of having such an impairment or being regarded as having such an impairment. The law also covers someone who is associated with a person with a disability.

### What is a reasonable accommodation?

A "reasonable accommodation" is a change, exception or adjustment to a rule, policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including its public and common use space. For example, reasonable accommodations include allowing an assistance animal even if there is a "no pets" policy or creating a reserved accessible parking space for a specific resident.



### What is a reasonable modification?

A "reasonable modification" is a structural change made to existing premises occupied or to be occupied by a person with a disability so that he or she can fully use and enjoy the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings, and to the common and public use areas. Examples of reasonable modifications include installing grab bars or ramps, lowering counter spaces, and allowing a person with a hearing impairment to install strobes. The resident is responsible for paying the cost of the modification. Tenants are obligated to restore the interior of the unit to its previous state only where it is reasonable to do so and the housing provider has requested the restoration. Section 504 of the Rehabilitation Act of 1973 may require landlords that receive federal funds to pay for reasonable modifications.

### What does "familial status" mean?

"Familial status" means the presence of children under 18 in the household. This includes pregnant women and persons 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.

### What actions does the law prohibit?

The law prohibits actions such as denying housing, limiting access to housing, discouraging home seekers or creating different rules, fees or standards because of one's membership in a protected class. The Fair Housing Act also prohibits harassing, coercing, intimidating or interfering with anyone exercising or assisting someone else with his/her fair housing rights.

### Does this mean that a landlord must rent to or cannot evict anyone who is a member of a protected class?

No. A housing provider has the right to refuse rental applications or evict tenants based on objective criteria, such as credit history or negative tenant history. A housing provider should set criteria and apply it equally to each applicant and resident.

## Where Can I Get More Information?

The Office of Fair Housing and Equal Opportunity (FHEO) administers and enforces federal laws and establishes policies that make sure all Americans have equal access to the housing of their choice.

Learn more about FHEO, or contact the Housing Discrimination Hotline:  
1.800.669.9777 (Voice)  
1.800.927.9275 (TTY)  
505.346.6708 (Albuquerque)

Disability.gov connects the disability community to information and opportunities. You can access housing related information in New Mexico at [www.disability.gov](http://www.disability.gov)

If you have a landlord/tenant-law related problem and need legal advice, please contact:  
New Mexico Legal Aid 1.866.416.1922  
Law Access New Mexico 1.800.340.9771

