

FAIR HOUSING-LANDLORDS PERSPECTIVE

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FAIR HOUSING-LANDLORDS PERSPECTIVE

I. Developing Non-Discriminating Rules

- a. Know what's prohibited
- b. Create clear, comprehensive, written neutral tenant rules
- c. Avoid unintentional violations
- d. Understand disparate impact
- e. Consider Policies of progressive discipline
- f. Tenant Rules and Policies should address what will happen
- g. Rules must be adequately communicated to the tenant

II. Enforcing Rules in a Non-Discriminating Manner

- a. Discover and document Rule violations
- b. Identify all written Policies when addressing tenant's violation of duties
- c. Uniformly apply written Policies to All offending parties
- d. Understand need to grant reasonable accommodation in terms and conditions when requested
- e. Reconcile and follow all Lease, Federal, State, and Municipal Rules and Regulations through Policy enforcement

III. Protecting Against Discrimination

- a. Education and Training
- b. Auditing
- c. Internal Policy protocols

IV. Dealing with Discovered Discrimination

- a. Internal affairs
- b. Responding to Claims

I. Developing Non-Discriminating Rules

a. Know what's prohibited

i. Protected Classes

- 1. Race** includes all races-African-American, Asian, Caucasian, etc.
- 2. Color** refers to the color of one's skin
- 3. National Origin** means the country where one was born
- 4. Ancestry** means the country where one's parents, grandparents or forebears were born (in some jurisdictions ancestry is covered as national origin)
- 5. Religion** includes one's membership (or lack thereof) in an organized religious group and one's spiritual ideas or beliefs
- 6. Sex** includes male and female
- 7. Familial Status and Parental Status** is the same thing-the presence of one or more children under the age of 18 in the household. It includes being a parent, step-parent, adoptive parent, guardian, foster parent or custodian of a minor child, as well as any person who is pregnant or who is in the process of acquiring legal custody of a child

8. **Disability** includes physical, mental and sensory conditions
9. **Marital Status** includes being single, married, separated, engaged, widowed, divorced or cohabitating
10. **Section 8** means the person has a Section 8 housing voucher for use in rental housing in the community
11. **Political Ideology**, includes any idea or belief, or coordinated body of ideas or beliefs, relating to the purpose, conduct, organization, function or basis of government and related institutions and activities, whether or not characteristic of any political party or group
12. **Age** means individuals of **any** age
13. **Sexual Orientation** means actual or perceived male or female heterosexuality, bisexuality, or homosexuality, and includes a person's attitudes, preferences, beliefs and practices pertaining thereto. In some jurisdictions, sexual orientation includes gender identity
14. **Gender Identity** means a person's identity, expression, or physical characteristics, whether or not traditionally associated with one's biological sex or one's sex at birth, including transsexual, transvestite, and transgendered, and including a person's attitudes, preferences, beliefs, and practices pertaining thereto

15. Veterans Status means former or current relationship with Armed forces or reserves

ii. Protected Conduct includes: Advertising; Sale; or Lease.

- b. Create clear, comprehensive, written neutral tenant rules. Rules should address conduct, not character, ensure rules are reasonable and further a legitimate interest.
- c. Avoid unintentional violations

Example:

- i. Adult swim hour. [Note: Lap swimming may be a viable nondiscriminatory alternative.]
- ii. Teen curfew. [Note: Consider a prohibition against loitering in a certain place after a specified time as an alternative.]
- iii. Treating Service Animals as Pets. [Note: As an alternative, use a Service Animal Addendum with appropriate duties.]
- d. Understand disparate impact. Avoid apparently neutral rules that adversely impact protected class individuals in the application of the rule. (Example: A screening criteria requiring a tenant applicant to earn two (2) times the amount of rent may disparately impact applicants with disabilities who receive SSI income but have other means of assuring performance of financial obligations)
- e. Consider Policies of progressive discipline.

- f. Tenant Rules and Policies should address what will happen. Make your rules reasonable and not punitive. Be willing to adhere to sanctions flowing from application of the policy.
- g. Rules must be adequately communicated to the tenant. Be sensitive of Language barriers.

II. Enforcing Rules in a Non-Discriminating Manner

- a. Discover and document Rule violations.
 - i. Written clear accurate notes. Notes should identify who, what, when, where, why, how and clearly identify the conduct at issue.
 - ii. Photos and use of other means to preserve evidence.
 - iii. Obtain Third (3rd) party verification of the conduct if possible.
- b. Identify all written Policies when addressing tenant's violation of duties.
- c. Uniformly apply written Policies to All offending parties. Issue appropriate Notices. Identify and invite opportunity to cure when appropriate.
- d. Understand need to grant reasonable accommodation in terms and conditions when requested.
- e. Reconcile and follow all Lease, Federal, State, and Municipal Rules and Regulations through Policy enforcement. [Note: It is not uncommon for there to be a gap in continuity between Leases, Federal and State Law. Even though the Lease or a Federal Law states that immediate termination is allowed,

there may be times when State Law does not provide a direct adequate remedy.]

III. Protecting Against Discrimination

a. Education and Training of Staff

- i. Employment/hiring screening
- ii. Provide education to all employees and vendors.
- iii. Post and disseminate posters, brochures, and material supporting equal opportunity Fair Housing.
- iv. Create employee handbooks and manuals

b. Auditing

- i. Internal Quality Assurance and Human Resource Monitoring
- ii. Outside testing/Intermountain Fair Housing Council/NWFHA

c. Internal Policy protocols

- i. Provide written rules and Policies to employees addressing conduct and progressive discipline to regulate conduct.

IV. Dealing with Discovered Discrimination

a. Internal affairs

- i. Preservation of allegedly discriminating employee testimony.
- ii. Uniform application of written discipline Policies to employees engaging in discrimination.

b. Responding to Claims

- i. Be professional and courteous to the investigator
- ii. Clarify facts
- iii. Provide documents and evidence supporting proper conduct
- iv. Provide law applicable to special circumstances and/or nuances of the case
- v. Invite Conciliation. Conciliation should occur prior to determination of “Cause” or “No Cause”.