

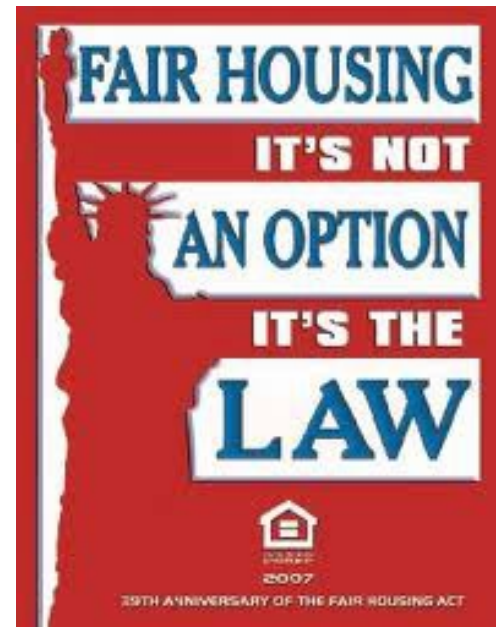
Office of Fair Housing and Equal Opportunity



Philip C. Shelton-Director
Fair Housing and Equal Opportunity-Indianapolis

Housing Discrimination

- What Housing is Covered
- Who is Covered
- What is Prohibited
- Additional Protection If You Have A Disability
- How to File a Complaint
- Complaint Process

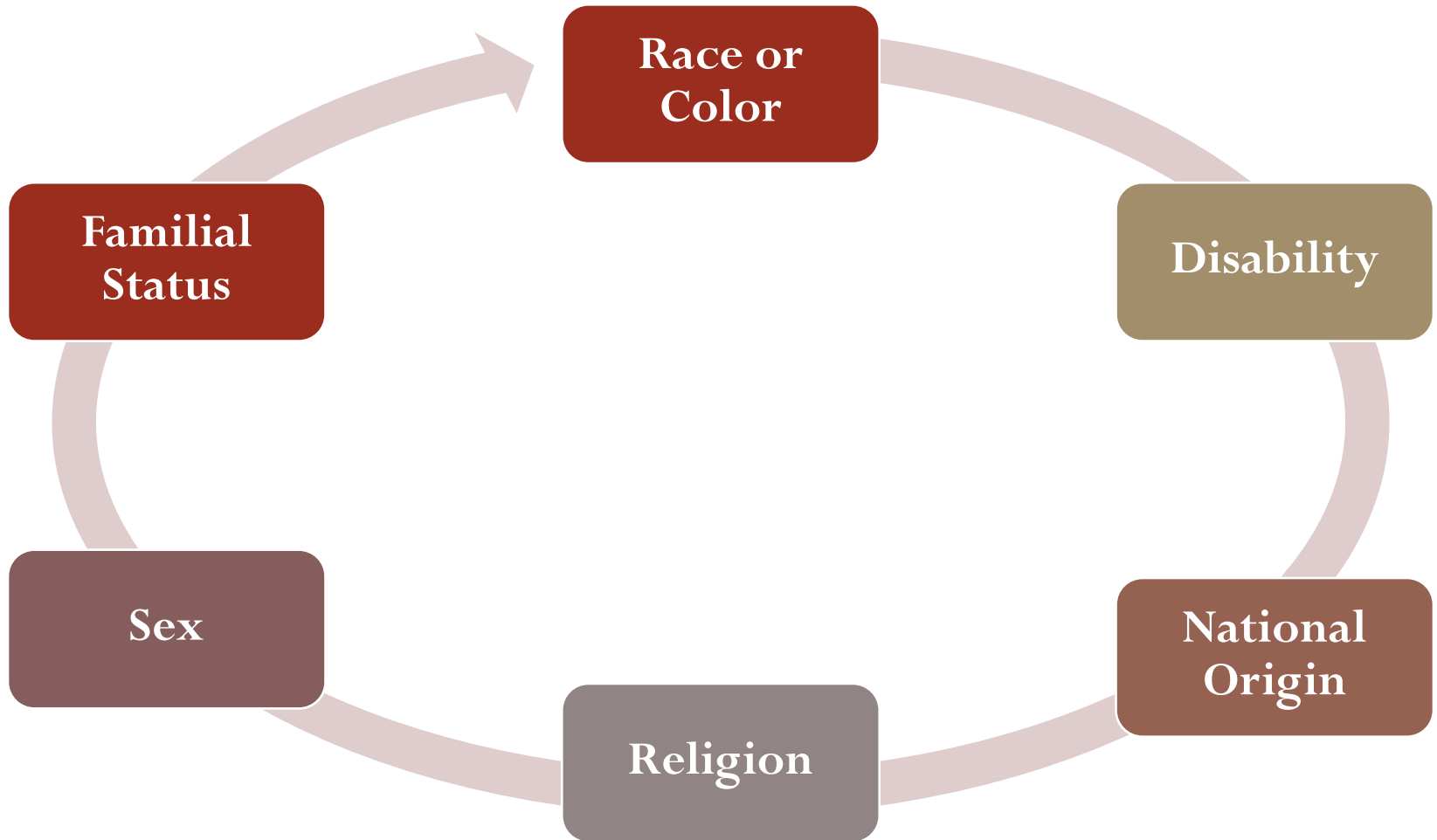


Covered Housing

- Most housing is covered.
- Exempted Housing:
 - Owner-occupied buildings with no more than 4 units
 - Single-family housing sold or rented without a broker
 - Housing operated by religious organizations and private clubs that limit occupancy to members
 - *Familial status*: Housing for persons 55 and older.



Who is Covered? Protected Classes under the Fair Housing Act



RACE / COLOR / NATIONAL ORIGIN

- Race includes people of color having origins in any of the black racial groups of Africa.
- Race can also refer to people of all races, including but not limited to, white people with European, Middle Eastern or North African ancestry.

Familial Status

- Limit number of children allowed (exception Section 807 (b)(1)).
- “Keating Memo” from 1991 – A 2 person per bedroom occupancy standard is reasonable unless the size of the bedrooms or other “special circumstances” indicate that the standard is unreasonable.

Example (Color):

- A white landlord provides favorable terms of rental to a lighter-skinned person of color and either refuses to rent to or provides less favorable terms of rental to a darker-skinned person of color.

What is Prohibited

- The following decisions cannot be based on a person's protected class:
 - Refuse to sell, rent or negotiate for housing;
 - Deny or make housing unavailable;
 - Set different terms, conditions or privileges for the sale or rental of a dwelling;
 - Provide different housing services or facilities;
 - Falsely deny that housing is available for inspection, rent or sale;
 - Engage in blockbusting;
 - Engage in steering;

Discriminatory housing practice: “Steering”

What is it?

- “The practice of channeling homeseekers into different areas based on their race or some other prohibited factor.” Schwemm § 15:10.
- Limits housing choices.
- 24 C.F.R. § 100.70(a) and (c)

What is Prohibited - Continued

- Deny a person access to participation in any organization, facility or service related to the sale or rental of housing;
- Refuse to purchase/make a loan;
- Impose different terms and conditions on a loan
- Appraise the property;
- Threaten , coerce, intimidate or interfere with anyone exercising fair housing rights, or assisting others in doing so;
- Make or publish a discriminatory statement or advertisement with respect to the rental or sale of a dwelling (applies to exempted housing as well).

Additional Protections if You Have a Disability

- If a tenant or someone associated with a tenant:
 - Has a physical or mental disability that substantially limits one or more major life activities;
 - Has a record of such disability; or
 - is regarded as having such a disability



Additional Protections if You Have a Disability - Continued

- The housing provider:
 - Must comply with accessibility requirements for new multifamily buildings;
 - May not ask for documentation when the disability is obvious;
 - May not refuse requests for **reasonable modifications** to a dwelling (at the tenant's expense)
 - May not refuse to make **reasonable accommodations** in rules, policies, practices or services

Filing a Housing Discrimination Complaint - Jurisdiction

1. Standing: the aggrieved person must allege that he/she has been injured by a discriminatory housing practice, or that such an injury is about to occur. The discriminatory act must be based on one of the protected classes.
2. Timeliness: complaint must be filed within one year of the date of the most recent occurrence of the discriminatory conduct.
3. Respondent Jurisdiction: the respondent and the dwelling must be covered under the Act.
4. Subject Matter Jurisdiction: the alleged discriminatory act must constitute an illegal practice as defined by the Act and be based on a protected class.

What Happens After You File?

- Notification
- Referral to State or Local Fair Housing Agency
- Investigation and Conciliation:
 - Determination of No reasonable cause
 - Determination of reasonable cause:
 - Issuance of a Charge
 - 20 days to decide whether to proceed to administrative law hearing or to federal district court.
 - Either way, two years to file in federal court, either from the date of last discriminatory act or the date the conciliation agreement was violated.



Investigation

Conciliation

Conciliation
Agreement

Investigation

Determination of No
Reasonable Cause

HUD dismisses the
complaint, but you can still
file in federal district court

Investigation

Determination of
Reasonable Cause

HUD issues a
Charge

Parties have 20 days to elect to
proceed to federal district Court
instead of an administrative law
hearing

Damages / Relief

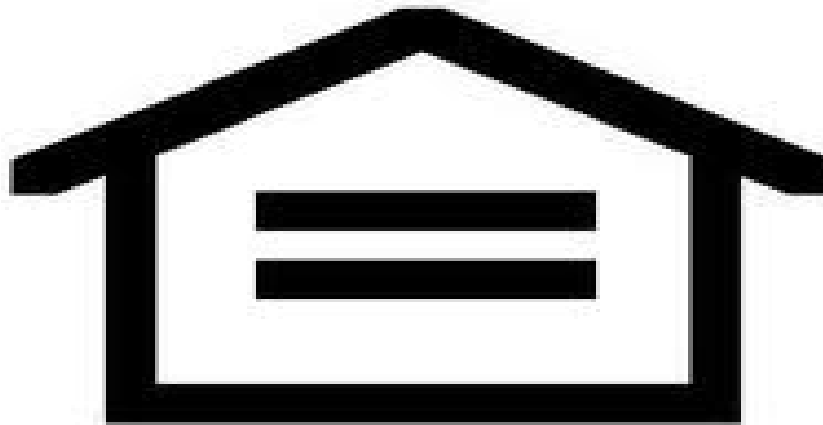
- **HUD Administrative Law Hearing:**
 - To compensate you for actual damages, including humiliation, pain and suffering.
 - To provide injunctive or other equitable relief, for example, to make the housing available to you.
 - (<https://www.federalregister.gov/documents/2022/04/26/2022-08768/adjustment-of-civil-monetary-penalty-amounts-for-2022>)
 - To pay reasonable attorney's fees and costs.
 - Right to appeal to federal court
- **Federal Court:**
 - Punitive damages



Sources to consider:

- 42 U.S.C 3601 *et seq.*
- Code of Federal Regulations (24 C.F.R. parts 100, 103 and 180).
- Housing Discrimination, Law and Litigation, Robert G. Schwemm
- Fair housing websites:
 - National Fair Housing Advocate: fairhousing.com
 - www.bazelon.org (disability)
 - U.S. Department of Justice housing section: www.usdoj.gov/crt/housing/caselist.htm
- Case law: Westlaw, Lexis

Questions?



**EQUAL HOUSING
OPPORTUNITY**