



Fair Housing Training

Part 1: Overview of Fair Housing Law

- ▶ Sources of Fair Housing laws
- ▶ What is “Discrimination”?
- ▶ Who is protected?
- ▶ Who must obey the law?
- ▶ What housing is covered?
- ▶ Discriminatory Practices
- ▶ Retaliation

Sources of Fair Housing Law

- ▶ State: Iowa Civil Rights Act of 1965 (Ch. 216 of Iowa Code)
- ▶ Federal: Fair Housing Act (Title 8 of U.S. Code)
- ▶ May also be local or municipal fair housing or anti discrimination laws that can apply



Fair Housing Law



- ▶ Fair housing law prohibits housing discrimination against members of a protected class.
- ▶ A protected class is a group of people who share common characteristics, and due to those shared characteristics, have been historically denied equal access and opportunity in housing.

What is Discrimination?

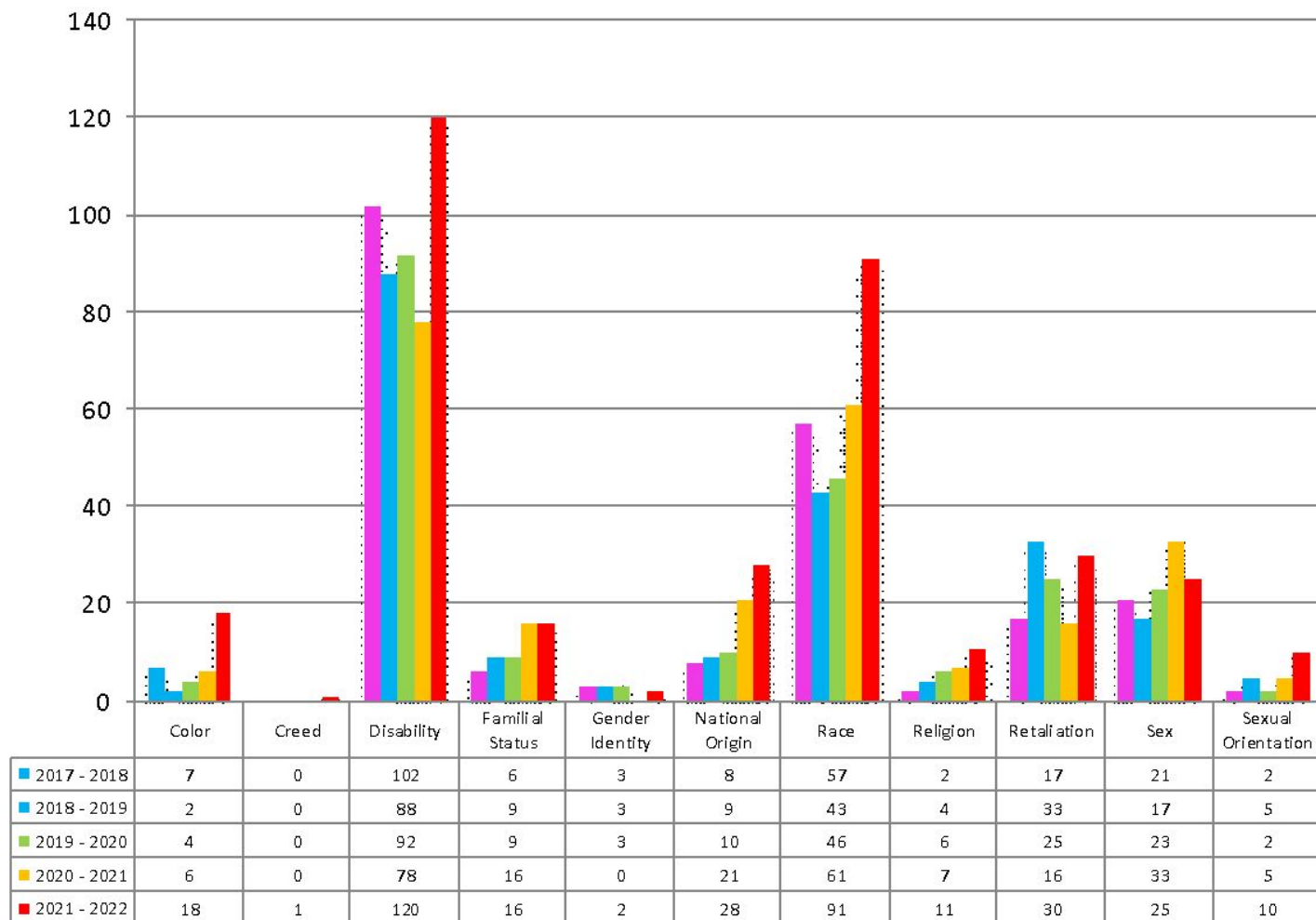
- ▶ Disparate Treatment
(discriminatory intent)
- ▶ Disparate Impact
(discriminatory effect)

Who is Protected Under Fair Housing Law?

- ▶ Race
- ▶ National Origin
- ▶ Color
- ▶ Familial Status
- ▶ Disability
- ▶ Religion
- ▶ Creed
- ▶ Sex
- ▶ Gender Identify
- ▶ Sexual Orientation



Cases Docketed in Housing by Basis



Who Must Obey the Law?

“Housing Providers”

- ▶ Property Owners
- ▶ Management Companies
- ▶ Employees or Agents of Owner or Management Company
- ▶ Real Estate Agency, Brokers, Agents
- ▶ Architects, Builders, Designers
- ▶ Advertisers*



Exemptions

- ▶ Owner-Occupied Property up to Four Housing Units
- ▶ “Housing for Older Persons”
 - ▶ 80% age 55+
 - ▶ 100% age 62+
- ▶ Others

What is a Dwelling?



What is a Dwelling?



Discriminatory Practices

Refusal to Rent, Make Unavailable



[42 U.S.C. 3604 § 804(a)]
[Iowa Code § 216.8(1)(a)]

100

Terms and Conditions



[42 U.S.C. 3604 § 804(b)]

[Iowa Code §216.8(1)(b)]

Discriminatory Practices: Discriminatory Statements

A housing provider cannot advertise that certain persons are not solicited or welcome as buyers or tenants because of a protected characteristic.



[42 U.S.C. 3604 § 804(c)]
[Iowa Code §216.8(1)(c)]



Discriminatory Practices: Discriminatory Statements

The law applies to:

- ▶ Spoken statements made to buyers or renters.
- ▶ Visual representations.
- ▶ Published or printed statements.
- ▶ Postings on the internet.

Discriminatory Practices: Harassment

Quid Pro Quo (“This for That”): when a housing provider conditions access or provision of services to a tenant through an unwelcome sexual demand or request for sexual favors in lieu of rental payment or under threat of eviction.

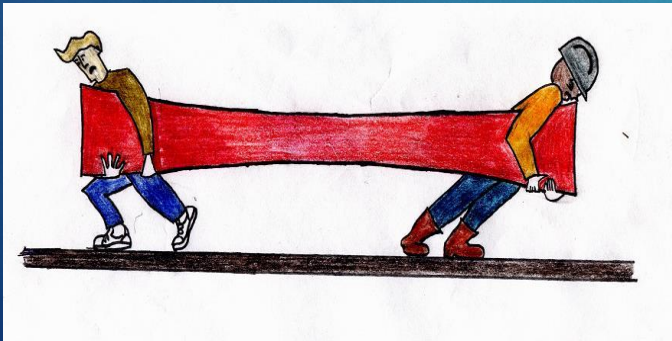
Discriminatory Practices: Harassment

Hostile Environment: when a housing provider or other person with decision making authority creates or allows an abusive housing environment or interferes with the tenant's peaceful enjoyment of the property

[42 U.S.C. 3174 § 818]
[Iowa Code § 216.11A]

Discriminatory Practices

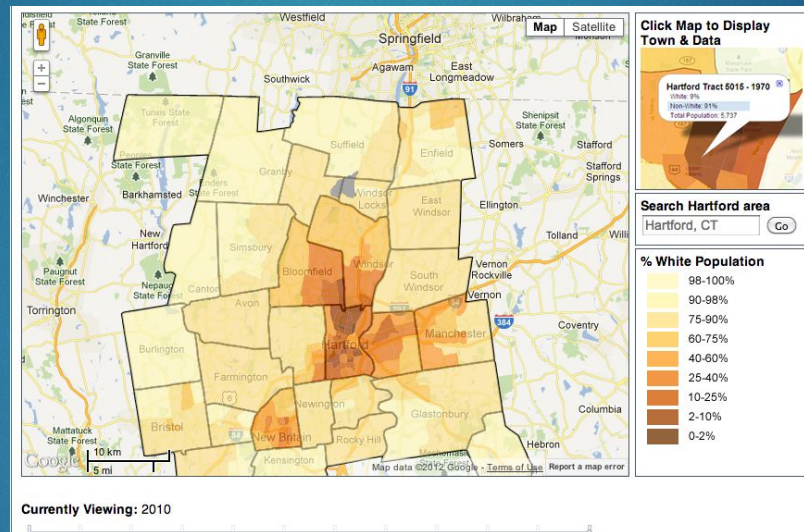
A housing provider cannot aid, abet, compel, or coerce another person to engage in an unfair or discriminatory practice.



[42 U.S.C. 3617 § 818]
[Iowa Code §216.11(1)]

Discriminatory Practices

Blockbusting



[42 U.S.C. 3604 § 804(e)]
[Iowa Code §216.8A(2)]

Retaliation

No person may retaliate against another person because he or she has engaged in one or more of these protected activities:

- ▶ Opposed discrimination
- ▶ Obeyed anti-discrimination law
- ▶ Participated in an anti-discrimination agency proceeding

[42 U.S.C. 3617 § 818]

[Iowa Code § 216.11A]

Part 2:

Fair Housing Law & Disability

- ▶ Who qualifies as a “person with a disability?”
- ▶ What constitutes “discrimination because of a disability”
 - ▶ Design & Construction
 - ▶ Reasonable Modifications
 - ▶ Reasonable Accommodations
 - ▶ Assistance Animals

Discrimination based on disability is prohibited in housing



- ▶ Refusal to Rent/Sell based on disability – Iowa Code §216.8A(3)(a)
- ▶ Terms & Conditions based on disability – Iowa Code §216.8A(3)(b)

Who qualifies as a “person with a disability”?

- ▶ (1) A physical or mental impairment which substantially limits one or more major life activities
 - ▶ (i.e. caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working)
- ▶ (2) A record of such an impairment

OR

- ▶ (3) Being regarded as having such an impairment

42. U.S.C. § 3602(h); Iowa Code § 216.2()

Who else is protected?

- ▶ It is unlawful to discriminate against a renter or buyer based on the disability of:
 - ▶ That person
 - ▶ A person residing in or intending to reside in the dwelling after it's sold, rented or made available
 - ▶ And a person associated with that buyer or renter



Discriminatory Practices

Design and Construction **Covered Multifamily Dwellings**

- ▶ All ground floor units in buildings comprised of four or more dwelling units
- ▶ All units in buildings comprised of four or more dwelling units if an elevator is present

Discriminatory Practice

Failure to meet Design & Construction Requirements

- ▶ An accessible entrance on an accessible route
- ▶ Accessible public/common use areas
- ▶ Doors sufficiently wide
- ▶ Accessible routes into/through dwelling
- ▶ Accessible light switches, electrical outlets, and thermostats
- ▶ Reinforcements in bathroom walls to accommodate grab bars
- ▶ Kitchens and bathrooms with sufficient maneuverability space

[42 U.S.C. 3604 § 804(f)(3)(C)]

[Iowa Code § 216.8A(3)(c)(3)]

Discriminatory Practices

Refusal to Permit Reasonable Modification

[42 U.S.C. 3604 § 804(f)(3)(A)]

[Iowa Code §216.8A(3)(c)(1)]



Discriminatory Practices

Refusal to Make Reasonable Accommodation

[42 U.S.C. 3604 § 804(f)(3)(A)]

Iowa Code §216.8A(3)(c)(2)



What is a Reasonable Accommodation?

- 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

Requests for Accommodation

- ▶ No magic words!
 - ▶ Don't have to use the words "reasonable accommodation."
- ▶ Promptly respond to request



The initial response is never “NO”

- ▶ The housing provider should engage in a conversation
- ▶ When a request is made, pursue further inquiry about the request
- ▶ If more information is necessary, request that information

How is a request for a reasonable accommodation evaluated?

1. Does the person have a disability?
2. Does the person have a disability-related need for the accommodation?

Requests for Accommodation

**Does the person have a
disability?**

(physical or mental impairment
that substantially limits
one or more major life activities)

Obvious or Apparent Disability

- ▶ The housing provider cannot engage in further inquiry about the disability.
- ▶ The disability has been established.

Disability Not Apparent

- ▶ A housing provider can request medical documentation showing that there is a disability based need for the requested accommodation.
- ▶ The housing provider **cannot** ask for the person's specific diagnosis or require that their diagnosis be revealed.
 - ▶ The housing provider **cannot** ask for medical records relating to the person's diagnosis.
 - ▶ However, a person making a reasonable accommodation request may voluntarily disclose this information.

Disability Not Apparent – *first option:*

- ▶ The housing provider can always take the person's word for it
- ▶ The housing provider does not have to request more information

Disability Not Apparent – Other Options:

1. If the person's source of income is related to a disability, there is no need for further inquiry, but the landlord may ask for more information regarding the disability-related need for the reasonable accommodation.
1. If the landlord has no means of knowing about the disability, they may seek more information to establish the presence of a disability and a disability-related need for the accommodation.


Requests for Accommodation

**Does the person have a
disability-related need
for the accommodation?**

(afford a person with disabilities an
equal opportunity to use or enjoy the
dwelling)

Responding to a Request for a Reasonable Accommodation

- ▶ A landlord needs to respond to a request within a reasonable time frame.
 - This is determined on a case-by-case basis
 - A landlord cannot ignore a request



Assistance Animal cases
represent 20% of **ALL** cases
filed with HUD or Fair
Housing Assistance
Program (FHAP) agencies

The Iowa Office of Civil Rights is a
FHAP agency.

When can a person request an assistance animal as a reasonable accommodation?

- ▶ The person can ask at any time
 - During the application process
 - At a lease renewal
 - Middle of a tenancy

Assistance Animals



- ▶ Works, provides assistance or performs tasks for the benefit of a person with a disability
- ▶ Provides emotional support that alleviates symptom or effect of disability

Assistance Animals

- ▶ Companion animal
- ▶ Emotional support animal (ESA)
- ▶ Therapy animal

Assistance Animals


An assistance animal:

- ▶ Is not a pet;
- ▶ Does not require special training.

Assistance Animals



- ▶ Type of animal: 2020 HUD Guidance.
- ▶ Is the animal commonly kept in households?
 - ▶ Examples: dog, cat, small bird, rabbit, hamster, gerbil, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure.



Iowa has recently codified the steps for
requesting and evaluating a request for
an assistance animal in 2024:

SF 2268 updates to
Iowa Code §§216.8B & 216.8C

Assistance Animals

Can a housing provider request documentation?



It depends . . .

Assistance Animals

Ask: Is the disability and the need obvious or known?

- ▶ If a person's need is obvious, then no more information can be requested.
- ▶ If disability is known or obvious, but the disability-related need is not, only request information necessary to evaluate the request.

Assistance Animals:

Requesting information
from a healthcare
provider

Iowa Code
§216.8C(1)(a-h)

Formerly Iowa Code §216C(2)(a-c)

Assistance Animals

Iowa Code §216C(1)

If a patient or client requests an accommodation for an assistance animal, that Iowa licensee or a licensee licensed under a similar law in another state and who is in good standing shall make a *written* finding of the following:

- a. The person has a disability
- b. The person has a disability-related need
- c. The nature of the assistance provided by the animal
- d. Certification that a provider-patient relationship existed for at least 30 days between the licensee and the person
- e. Certification that the licensee is familiar with the person prior to the finding
- f. The date the finding was issued AND the date the finding expires
- g. The licensee's license number and type of license
- h. Whether the licensee received a fee or other compensation for providing the written finding.

Assistance Animals

Who is a Licensee?

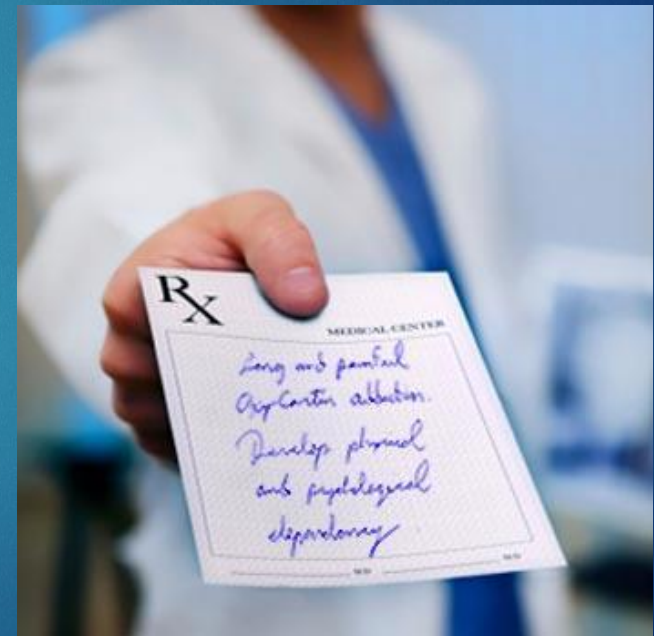
- ▶ 148 (physicians)
- ▶ 148C (physician assistants)
- ▶ 152 (nurses)
- ▶ 154B (psychologists)
- ▶ 154C (social worker)
- ▶ 154D (counselors, therapists)

Iowa Code § 216.8C(1)

Assistance Animals

Acceptable statements about a person's disability or disability-related need come from:

- ▶ Doctors
- ▶ Physician assistants
- ▶ Psychiatrists
- ▶ Psychologists
- ▶ Social workers



Assistance Animals

- ▶ A licensee's written finding should be dated within 12 months of the start of a rental agreement
- ▶ The written finding is valid for 12 months OR the term of the rental agreement – whichever is longer

Iowa Code § 216.8C(2)

Assistance Animals

Health Care Professional Form*

- ▶ Created as required by the amended Iowa Civil Rights Act.

- ▶ Find on Commission's website:

<https://icrc.iowa.gov/media/424/download?inline>

Iowa Code § 216.8C(3)



Assistance Animals

Please Note:

This section **does not** limit the means by which a person with a disability may demonstrate, pursuant to state or federal law, that the person has a disability or that the person has a disability-related need for an assistance animal or service animal.

Iowa Code § 216.8C(6)

Insufficient Information

for establishing a disability or disability-related need

- ▶ Per Iowa Code § 216.8B(4), a person **cannot** establish the presence of a disability or a disability-related need by producing proof of service animal registration of any kind, including:
 - ▶ Identification card
 - ▶ Patch
 - ▶ Certificate
 - ▶ Other similar registration

If the housing provider seeks confirmation of a disability or a disability-related need, more documentation is needed

Assistance Animals

**What are the
exceptions?**

Assistance Animals – Exceptions

An accommodation may not be reasonable when the accommodation poses:

- ▶ Undue financial and administrative burden;
- ▶ Fundamental alteration to essential nature of services;
- ▶ Direct threat to health or safety.

Assistance Animals - Exceptions

Undue financial **AND**
administrative burden

- ▶ Cost of the requested accommodation
- ▶ Financial resources of provider
- ▶ Benefits of the accommodation
- ▶ Availability of alternative accommodations.

Assistance Animals - Exceptions

Fundamental alteration to the essential nature
of the housing provider's services



Assistance Animals - Exceptions

Poses a direct threat to health
or safety of others

- ▶ Does **specific assistance animal** pose a direct threat?
- ▶ Would **the specific assistance animal** cause substantial damage to property of others?

Assistance Animals

- ▶ Individualized assessment based on objective evidence about specific animal
- ▶ No breed, size, or weight limitations.
- ▶ No requirement for insignia

Assistance Animals



- ▶ *Cohen v. Clark*, 945 N.W.2d 792 (Iowa 2020)
- ▶ How does a housing provider deal with accommodation requests which conflict?
 - ▶ Must balance needs of tenants with burdens imposed by those needs.
 - ▶ First in time is **one** factor that can be considered.
 - ▶ Must be more than mere inconvenience for tenant in question.

Assistance Animals

- ▶ Subject to local licensing and vaccination requirements.
 - ▶ Iowa Code § 216.8B(6)(d)
- ▶ Multiple animals?
 - ▶ Must be a disability-related need for each animal.
 - ▶ Landlord can ask for information related to each animal.
 - ▶ Iowa Code § 216.8B(5)

Assistance Animals

What about tenant rules and regulations?

- ▶ Tenant has to follow rules of complex.
- ▶ Tenant is responsible for damage to property.

Iowa Code § 216.8B(8)

Assistance Animals

A landlord **shall** make reasonable accommodations in the landlord's rules, policies, practices, and services normally required for pets, for the assistance animal...of a person with a disability. Iowa Code § 216.8B(6)(b)

- ❑ I.e. no fees are to be applied to an assistance animal.

Questions?



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