

## SUMMARY OF ADVERTISEMENT ANALYSES

Federal and state fair housing laws prohibit the making of any housing-related notice, statement, or advertisement that indicates any preference, limitation, or discrimination based on a protected characteristic. Under federal fair housing law, the protected characteristics include race, color, sex, religion, national origin, disability, and familial status. In addition to these characteristics, Iowa fair housing law also protects people from discrimination based on sexual orientation, gender identity, and creed.

In order to avoid discriminatory advertising, a housing provider should focus on the property, not on the characteristics of people (desired applicants, current tenants, or the housing provider). Advertisements which avoid discussing characteristics of people will comply with the law and will also expand the range of potential tenants who feel welcome to apply.

The vast majority (90%) of potentially discriminatory advertisements identified in the study were discriminatory on the basis of familial status. The two most common potentially discriminatory phrasings involved students and occupancy limits. Several advertisements also indicated confusion among housing providers regarding the exception for familial status discrimination for housing for the elderly.

Many of the advertisements are targeted toward “students”, “grad students”, or “professionals”. While students and professionals are certainly classifications of people who *may* have families, the ordinary reader of such an ad may infer that prospective tenants who are accompanied by families, or who are parents, are not acceptable or welcome as tenants.

Occupancy limits disproportionately impact families with children. Therefore, it is potentially discriminatory for a housing provider to advertise occupancy limits. Landlords may set reasonable occupancy standards for housing units, but they may not set standards stricter than the local housing code. If a locality does not have an occupancy code, the current guideline of the U.S. Department of Housing and Urban Development (HUD) is two persons per average-sized bedroom, taking into consideration the size and configuration of the unit as a whole. The standard is based on “person,” not on whether the person is an adult or a child, male or female. Simply listing the number of bedrooms or size of the rental unit, without mentioning the number of occupants would be non-discriminatory.

Although age is not a protected characteristic under either state or federal law, advertising targeting “adults”, “mature” people, or “professionals” may be discriminatory on the basis of familial status because they could indicate to the ordinary reader that families with children are unwelcome and discouraged from applying. There are limited exceptions to both state and federal fair housing laws for familial status discrimination for elder housing complexes. Property managers who do not meet these exceptions but advertise for singles, adults, or professionals without regard to the age of the prospective tenant are violating the state and federal housing laws that prohibit discrimination against families with children. If the housing unit is exempt from the familial status advertising provision because it qualifies as housing for older persons, housing providers should remember to consult the specific state or federal housing program to determine the actual requirements, and advertise accordingly.

## QUESTIONABLE OR POSSIBLY DISCRIMINATORY STATEMENTS

The following advertisements were found to be potentially discriminatory based on the identified protected characteristics.

### DISABILITY AND FAMILIAL STATUS

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “50 & older may apply; or if younger must be at least 18 years old & mobility impaired.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that indicates any preference, limitation, or discrimination based on, among other factors, familial status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. “Housing for older persons” is exempt from the advertising regulation regarding discrimination on the basis of familial status under both the Fair Housing Act and the Iowa Code if the housing meets the statutory criteria. 42 U.S.C. § 3607(b), Iowa Code 216.12(d). However, exceptions to the familial status advertising requirements of the Fair Housing Act and the Iowa Civil Rights Act begin at age 55, not 50. 42 U.S.C. § 3607(b)(2), Iowa Code § 216.12(d).

The Fair Housing Act and the Iowa Civil Rights Act also prohibit discriminatory advertising on the basis of disability. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). However, under certain programs designed and operated to assist individuals in need of accessibility features, HUD allows property owners to reserve up to 5% of their units for persons with such needs. Those units can be reserved exclusively for persons with mobility impairments.

**Analysis:** Advertising that states “50 & older may apply” may indicate to the ordinary reader that families with children are unwelcome and discouraged from applying because people aged 50 and older are less likely to have children living with them. The advertisement indicates the housing does not qualify as “housing for older persons” under either the Fair Housing Act or the Iowa Code, because the advertised age is 50 & older, but the statutory exemption begins at age 55. Therefore, it is not exempted from the prohibition against advertising a preference based on familial status.

If the housing provider complies with a program approved by HUD which allows property owners to reserve up to 5% of their units for individuals in need of accessibility features, advertising targeted to individuals who need accessibility features, and not to individuals with other types of disabilities, is permissible.

**Conclusion:** Advertising that states “50 & older may apply; or if younger must be at least 18 years old & mobility impaired.” is discriminatory on the basis of familial status in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3), because the exceptions to the Fair Housing Act and the Iowa Civil Rights Act are limited to housing for persons age 55 or older.

**Non-discriminatory phrasing suggestion:**

If the unit qualifies for the “80% of occupied units includes at least one resident aged 55 or older” exception, the advertisement could state, “1BR & Studio Apts., 55 & older may apply; or if younger must be at least 18 years old & needing the unit’s accessibility features.”

OR

If qualifying under the 62 or older provision, “1BR & Studio Apts., 62 & older may apply” without mentioning disability because all residents must be aged 62 or older.

OR

If the rental unit qualifies under the State or Federal program exception, please remember to consult the specific state or federal housing program to determine the actual requirements, and advertise accordingly. However, note HUD notice 94-8 advises wherever the term “mobility impaired” is used; it should be replaced by “tenants needing the accessibility features of the units.”

## FAMILIAL STATUS

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “perfect for couple or single person”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “perfect for couple or single person” would likely suggest to an ordinary reader that couples or single individuals are preferred, and that other applicants, such as families with children, are dis-preferred.

Furthermore, Craig’s List, the website on which this advertisement was posted, requires compliance with fair housing laws as a condition of use and provides guidelines identifying certain words and phrases as discriminatory. These guidelines specifically identify similar phrases, such as “perfect for single or couple”, as the type of advertisement which might discourage families with children from inquiring. Therefore, the advertiser had constructive notice that such wording could potentially be discriminatory based on familial status.

**Conclusion:** Advertising that states “perfect for couple or single person” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** To avoid discriminatory advertising, it is appropriate to describe the buildings and facilities, but not to describe the personal characteristics of either the current residents or solicited residents. Therefore, omitting the phrase “perfect for couple or single person” and focusing size of the rental unit would be an acceptable rephrasing.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Would like to limit number of total occupants to three”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that indicates any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate if there is a disparate impact upon members of a protected group. The elements of a prima facie disparate impact case include: (1) the occurrence of certain facially neutral practices, and (2) a significantly adverse or disproportionate impact on persons of a particular type produced by defendant's facially neutral acts or policies. In the case of a facially neutral occupancy limit, families with children are disproportionately denied housing. *See United States v. Badgett*, 976 F.2d 1176 (8th Cir. 1992), *Pfaff v. HUD*, 88 F3d 739 (9th Cir. 1996). An occupancy requirement is not always invalid, but such a requirement is generally suspect. *Badgett*, 976 F.2d 1176. To determine whether an occupancy limit is legitimate, circumstances must be considered, including the size of the dwelling and general practice in the area. *Pfaff*, 88 F3d 739. Additionally, any reasonable local, State, or federal restrictions regarding the number of people allowed to occupy a dwelling may be considered. 42 U.S.C. § 3607(b)(1).

**Analysis:** Advertising that states “Would like to limit number of total occupants to three” indicates a policy that disproportionately impacts families with children. The phrase “would like to” indicates flexibility, which negates the possibility of any local, State, or federal restriction regarding the number of people allowed to occupy the dwelling. The phrase also indicates factors such as the size of the dwelling or area practice are not determinative of the occupancy, or such flexibility would not be advertised.

**Conclusion:** Advertising that states “Would like to limit number of total occupants to three” indicates a policy that disproportionately impacts families with children. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning the number of occupants would be non-discriminatory.

Landlords may set reasonable occupancy standards for housing units, but landlords may not set standards stricter than the local housing code. If a locality does not have an occupancy code, the current guideline of the U.S. Department of Housing and Urban Development (HUD) is two persons per average-sized bedroom, taking into consideration the size and configuration of the unit as a whole. The standard is based on “person,” not on whether the person is an adult or a child, male or female.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “These units are occupied by professional working people and retirees”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54

(1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “These units are occupied by professional working people and retirees” would likely suggest to an ordinary reader that couples without children or single individuals are preferred, and that other applicants, such as families with children, are dis-preferred. Furthermore, Craig’s List, the website on which this advertisement was posted, requires compliance with fair housing laws as a condition of use and provides guidelines identifying certain words and phrases as discriminatory. These guidelines specifically identify similar phrases, such as “ideal for working professionals”, as the type of advertisement which might discourage families with children from inquiring. Therefore, the advertiser had constructive notice that such wording could potentially be discriminatory based on familial status.

**Conclusion:** Advertising that states “These units are occupied by professional working people and retirees” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory on the basis of familial status in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Omitting the reference to professional working people and retirees would be a non-discriminatory phrasing.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols,**

**or forms:** “I would like to rent this out to College Students only” and “I am renting . . . to Drake students.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “I would like to rent this out to College Students only” or “I am renting . . . to Drake students” would likely suggest to an ordinary reader that individual college students are preferred, and that other applicants, such as families with children, are dis-preferred.

**Conclusion:** Advertising that states “I would like to rent this out to College Students only” or “I am renting . . . to Drake students” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not specifically referring to students, would identify the housing as good for students without discriminating against families.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “all single adult building”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “all single adult building” would likely suggest to an ordinary reader that single adults are preferred, and that other applicants, such as families with children, are dis-preferred.

**Conclusion:** Advertising that states “all single adult building” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** To avoid discriminatory advertising, it is appropriate to describe the buildings and facilities, but not to describe the personal characteristics of either the current residents or solicited residents. Therefore, omitting the phrase “all single adult building” and focusing on the building and neighborhood would be an acceptable rephrasing.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Professor/grad-student or other adults”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “Professor/grad-student or other adults” would likely suggest to an ordinary reader that adults are preferred, and that other applicants, such as families with children, are dis-preferred.

**Conclusion:** Advertising that states “Professor/grad-student or other adults” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition would be non-discriminatory. Alternatively, stating “close to the University”, but not specifically referring to adults or students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Graduate/Professional building”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “Graduate/Professional building” would likely suggest to an ordinary reader that adults are preferred, and that other applicants, such as families with children, are dis-preferred.

Furthermore, Craig’s List, the website on which this advertisement was posted, requires compliance with fair housing laws as a condition of use and provides guidelines identifying certain words and phrases as discriminatory. These guidelines specifically identify similar phrases, such as “ideal for working professionals” or “nice, quiet, mature neighborhood”, as the type of advertisement which might discourage families with children from inquiring. Therefore, the advertiser had constructive notice that such wording could potentially be discriminatory based on familial status.

**Conclusion:** Advertising that states “Graduate/Professional building” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory on the basis of familial status in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not specifically referring to students or professionals would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Great for singles or new couples. Not so good for kids tho.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred

for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “Great for singles or new couples. Not so good for kids tho.” would likely suggest to an ordinary reader that adults are preferred, and that other applicants, such as families with children, are dis-preferred.

**Conclusion:** Advertising that states “Great for singles or new couples. Not so good for kids tho.” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition would be non-discriminatory.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Maximum occupancy 2 adults”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “Maximum occupancy 2 adults” would likely suggest to an ordinary reader that adults are preferred, and that other applicants, such as families with children, are dis-preferred.

**Conclusion:** Advertising that states “Maximum occupancy 2 adults” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning the number of occupants or specifying adults would be non-discriminatory. Landlords may set reasonable occupancy standards for housing units, but landlords may not set standards stricter than the local housing code. If a locality does not have an occupancy code, the current guideline of the U.S. Department of Housing and Urban Development (HUD) is two persons per average-sized bedroom, taking into consideration the size and configuration of the unit as a whole. The standard is based on “person,” not on whether the person is an adult or a child, male or female.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “quiet single” or “students only”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be

violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “quiet single” or “students only” would likely suggest to an ordinary reader that adults are preferred, and that other applicants, such as families with children, are dis-preferred. Furthermore, one advertisement stating a preference for a single individual, and another stating a preference for multiple students indicates insufficient space for more than one person is not the primary reason for preferring a single person.

**Conclusion:** Advertising that states “quiet single” or “students only” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying.

Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition would be non-discriminatory.

Alternatively, stating “close to the University”, but not specifically referring to single individuals or students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Want to room with a Friend? I have 2 rooms available, one furnished, one unfurnished @500 each. Great for Drake or DMU students.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “Want to room with a Friend? I have 2 rooms available, one furnished, one unfurnished @500 each. Great for Drake or DMU students.” would likely suggest to an ordinary reader that adults are preferred, and that other applicants, such as families with children, are dis-preferred. Furthermore, an advertisement stating a preference for multiple students indicates insufficient space for more than one person is not the primary reason for preferring single individuals.

**Conclusion:** Advertising that states “Want to room with a Friend? I have 2 rooms available, one furnished, one unfurnished @500 each. Great for Drake or DMU students.” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying.

Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not specifically referring to students or rooming with a friend, would identify the housing as good for students without discriminating against families.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms: “Adult living”**

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

Housing for older persons is exempt from the advertising regulation regarding discrimination on the basis of familial status under both the Fair Housing Act and the Iowa Code if the housing meets the statutory criteria. 42 U.S.C. § 3607(b), Iowa Code 216.12(d).

**Analysis:** Advertising that states “Adult living” would likely suggest to an ordinary reader that adults are preferred, and that other applicants, such as families with children, are dis-preferred. The advertisement does not indicate the housing qualifies as housing for older persons under either the Fair Housing Act or the Iowa Code, so it is not likely to be exempted from the prohibition against advertising a preference based on familial status.

**Conclusion:** Advertising that states “Adult living” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Either removing the phrase “adult living” or specifying the age restrictions of the housing that qualify it for the familial status advertising exception (e.g. 62 or older only) would avoid potentially discriminatory language.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms: “ideal for friends”**

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred

for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising that states “ideal for friends” would likely suggest to an ordinary reader that groups of adults are preferred, and that other applicants, such as families with children, are dis-preferred. Furthermore, an advertisement stating a preference for multiple adults indicates insufficient space for more than one person is not the primary reason for dis-prefering families with children.

**Conclusion:** Advertising that states “ideal for friends” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply omitting the reference to friends or any other characteristics of an applicant would be non-discriminatory.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Perfect for Students” and “Apartment rents for \$975 for 3 or less people or \$1050 for 4”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

The Fair Housing Act and the Iowa Civil Rights Act may also be violated without a showing of a subjective intent to discriminate if there is a disparate impact upon members of a protected group. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). The elements of a prima facie disparate impact case include: (1) the occurrence of certain facially neutral practices, and (2) a significantly adverse or disproportionate impact on persons of a particular type produced by defendant's facially neutral acts or policies. In the case of a facially neutral surcharge for more than three occupants, families with children are disproportionately denied housing. A surcharge for additional residents is not always invalid, but the owner must be able to both explain the business necessity for the surcharge, and justify the amount.

**Analysis:** Advertising “Perfect for Students” may indicate to the ordinary listener that students are preferred over other applicants, such as families with children. Additionally, advertising that states “Apartment rents for \$975 for 3 or less people or \$1050 for 4” indicates a policy that disproportionately impacts families with children.

**Conclusion:** Advertising that states “Perfect for Students” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Furthermore, “Apartment rents for \$975 for 3 or less people or \$1050 for 4” is a policy that disproportionately impacts families with children. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Rewording the advertisement to state “Perfect for Students or Families” and “Apartment rents for \$975 for 3 adults or less or \$1050 for 4. Children would fall under the \$975 price” is non-discriminatory.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “perfect for Drake students”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “perfect for Drake students” may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “perfect for Drake students” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to Drake”, but not specifically referring to students would identify the housing as good for students without discriminating against families.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Special offer for DMU students” and “Could also furnish the home for out of state DMU students.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Special offer for DMU students” and “Could also furnish the home for out of state DMU students” may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Special offer for DMU students” and “Could also furnish the home for out of state DMU students” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is

discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply stating “close to DMU”, but not offering a special or specifically referring to students would identify the housing as good for students without discriminating against families.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Great house for Drake Law/Pharm or DMU student”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Great house for Drake Law/Pharm or DMU student” may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Great house for Drake Law/Pharm or DMU student” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to Drake and DMU”, but not specifically referring to students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “for graduate student”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that indicates any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999.

Fair Housing law may also be violated without a showing of a subjective intent to discriminate if there is a disparate impact upon members of a protected group. The elements of a prima facie disparate impact case include: (1) the occurrence of certain facially neutral practices, and (2) a significantly adverse or disproportionate impact on persons of a particular type produced by defendant's facially neutral acts or policies. In the case of a facially neutral occupancy limit, families with children are disproportionately denied housing. *See United States v. Badgett*, 976 F.2d 1176 (8th Cir. 1992), *Pfaff v. HUD*, 88 F3d 739 (9th Cir. 1996). An occupancy requirement is not always invalid, but such a requirement is generally suspect. *Badgett*, 976 F.2d 1176. To

determine whether an occupancy limit is legitimate, circumstances must be considered, including the size of the dwelling and general practice in the area. *Pfaff*, 88 F3d 739. Additionally, any reasonable local, State, or federal restrictions regarding the number of people allowed to occupy a dwelling may be considered. 42 U.S.C. § 3607(b)(1).

**Analysis:** Advertising “for graduate student” may indicate to the ordinary reader that students are preferred over other applicants, such as families with children. Additionally, advertising “for graduate student” indicates a policy that disproportionately impacts families with children. HUD guidelines suggest two people per bedroom is generally a reasonable occupancy limit. Unless the particular circumstances make greater occupancy impracticable, a one person occupancy limit is unlawful for a one-bedroom home.

**Conclusion:** Advertising that states “for graduate student” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. It also indicates an occupancy policy that disproportionately impacts families with children. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition would be non-discriminatory. Alternatively, stating “close to the University”, but not specifically referring to single individuals or students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Grad Students Look!”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Grad Students Look!” is targeted to graduate students, which may indicate to the ordinary reader that graduate students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Grad Students Look!” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not specifically referring to students would identify the housing as good for students without discriminating against families. Alternatively, simply omitting the reference to students or any other characteristics of an applicant would be non-discriminatory.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Great student location.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Great student location” targets students, which may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Great student location” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not specifically referring to students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “students or professionals?”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “students or professionals?” may indicate to the ordinary reader that students or professionals are preferred over other applicants, such as families with children. Although the wording indicates the housing provider is not unwilling to consider other applicants, targeting the advertisement toward students and professionals may indicate to the ordinary reader that students and professionals will be preferred applicants.

**Conclusion:** Advertising that states “students or professionals?” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not specifically referring to students or professionals would identify the housing as good for students without discriminating against families. Alternatively, simply omitting the reference to students, professionals, or any other characteristics of an applicant would be non-discriminatory.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Ideal for graduate student or writer.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Ideal for graduate student or writer” is targeted to graduate students and writers, which may indicate to the ordinary reader that graduate students and writers are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Ideal for graduate student or writer” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition would be non-discriminatory.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Ideal for grad student(s)”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Ideal for grad student(s)” is targeted to graduate students, which may indicate to the ordinary reader that graduate students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Ideal for grad student(s)” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not specifically referring to students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Drake students you will not believe this 7 bedroom charmer.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Drake students you will not believe this 7 bedroom charmer.” is targeted to students, which may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Drake students you will not believe this 7 bedroom charmer.” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to Drake University”, but not specifically referring to students would identify the housing as good for students without discriminating against families.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Room is: 600\$ couple 500\$ single”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999.

The Fair Housing Act and the Iowa Civil Rights Act may also be violated without a showing of a subjective intent to discriminate if there is a disparate impact upon members of a protected group. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). The elements of a prima facie disparate impact case include: (1) the occurrence of certain facially neutral practices, and (2) a significantly adverse or disproportionate impact on persons of a particular type produced by defendant's facially neutral acts or policies. In the case of a facially neutral surcharge for more than one occupant, families with children are disproportionately denied housing. A surcharge for additional residents is not always invalid, but the owner must be able to both explain the business necessity for the surcharge, and justify the amount.

**Analysis:** Advertising “Room is: 600\$ couple 500\$ single” may indicate to the ordinary listener that singles and couples are preferred over other applicants, such as families with children. Additionally, advertising there will be a \$100 surcharge for more than one occupant indicates a policy that disproportionately impacts families with children.

**Conclusion:** Advertising that states “Room is: 600\$ couple 500\$ single” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Furthermore, charging \$100 more for more than one occupant is a policy that disproportionately impacts families with children. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning the number of occupants or specifying single adults or couples would be non-discriminatory. Clarifying that there is no surcharge for children, or omitting the price difference would also be necessary to avoid discriminatory advertising based on familial status.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “excellent for UI Grad Students” and “Quiet/Respectful Neighbors --Excellent for graduate students looking to get away from UI party crowds”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Excellent for graduate students” is targeted to graduate students, which may indicate to the ordinary reader that graduate students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Excellent for graduate students” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “quiet neighborhood close to the University”, but not specifically referring to students would identify the housing as good for students without discriminating against families.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Would work for Drake University student”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred

for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Would work for Drake University student” targets students, which may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Would work for Drake University student” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not specifically referring to students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “1 bedroom, single person (nice room for one)” and “Great for students”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that indicates any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999.

Fair Housing law may also be violated without a showing of a subjective intent to discriminate if there is a disparate impact upon members of a protected group. The elements of a prima facie disparate impact case include: (1) the occurrence of certain facially neutral practices, and (2) a significantly adverse or disproportionate impact on persons of a particular type produced by defendant's facially neutral acts or policies. In the case of a facially neutral occupancy limit, families with children are disproportionately denied housing. *See United States v. Badgett*, 976 F.2d 1176 (8th Cir. 1992), *Pfaff v. HUD*, 88 F3d 739 (9th Cir. 1996). An occupancy requirement is not always invalid, but such a requirement is generally suspect. *Badgett*, 976 F.2d 1176. To determine whether an occupancy limit is legitimate, circumstances must be considered, including the size of the dwelling and general practice in the area. *Pfaff*, 88 F3d 739. Additionally, any reasonable local, State, or federal restrictions regarding the number of people allowed to occupy a dwelling may be considered. 42 U.S.C. § 3607(b)(1).

**Analysis:** Advertising and “Great for students” may indicate to the ordinary reader that students are preferred over other applicants, such as families with children. Additionally, advertising “1 bedroom, single person (nice room for one)” indicates a policy that disproportionately impacts families with children. HUD guidelines suggest two people per bedroom is generally a reasonable occupancy limit. Unless the particular circumstances make greater occupancy impracticable, a one person occupancy limit is unlawful for a one-bedroom home.

**Conclusion:** Advertising that states “Great for students” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Advertising “1 bedroom, single person (nice room for one)” indicates an occupancy policy that disproportionately impacts families with children. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition would be non-discriminatory.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “\$1000 Grad or Prof student special”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “\$1000 Grad or Prof student special” is targeted to graduate and professional students, which may indicate to the ordinary reader that students are preferred over other applicants, such as families with children. Furthermore, the advertisement indicates students may receive more favorable terms and conditions than non-students would receive.

**Conclusion:** Advertising that states “\$1000 Grad or Prof student special” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying and may receive less advantageous terms and conditions. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the University”, but not offering a special or specifically referring to students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Great for 3-4 college students”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Great for 3-4 college students” targets students, which may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Great for 3-4 college students” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Iowa Civil Rights Act, Iowa Code § 216.8(3) and the Fair Housing Act, 42 U.S.C. § 3604(c).

**Non-discriminatory phrasing suggestion:** Stating “close to the university”, but not specifically referring to students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Drake Students!”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Drake Students!” targets students, which may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Drake Students!” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to Drake University”, but not specifically referring to students would be a non-discriminatory way of advertising.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Plenty of space on two floors for four students”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “Plenty of space on two floors for four students” is targeted to students, which may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “Plenty of space on two floors for four students” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition or occupancy would be non-discriminatory.

Stating “close to the College” would identify the housing as good for students without discriminating against families.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “A Grad Students Dream”; “quite community of young professionals and grad students”; and “excellent for graduate students looking to get away from UI party crowds”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

**Analysis:** Advertising “A Grad Students Dream”; “quite community of young professionals and grad students”; and “excellent for graduate students looking to get away from UI party crowds” targets students, which may indicate to the ordinary reader that students are preferred over other applicants, such as families with children.

**Conclusion:** Advertising that states “A Grad Students Dream”; “quite community of young professionals and grad students”; and “excellent for graduate students looking to get away from UI party crowds” may suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Stating “close to the College” would identify the housing as good for students without discriminating against families. Stating “a quite community perfect for families, professionals, and grad students” would address the community without discouraging families with children from applying.

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Bachelor's house and no children.”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

The Iowa Code provides, “The provisions of sections 216.8 and 216.8A shall not apply to:

(f) Discrimination on the basis of sex involving the rental, leasing, or subleasing of a dwelling within which residents of both sexes would be forced to share a living area. § 216.12(1)(f).

There is no similar exemption that allows expressing a preference based on familial status when advertising for a roommate.

**Analysis:** Advertising that states “Bachelor's house and no children. Would prefer female college student.” explicitly states a preference based on sex, which falls within the roommate exception allowing discriminatory advertising based on sex. Iowa Code § 216.12(1)(f).

The advertisement would likely suggest to an ordinary reader that adults are preferred, and that other applicants, such as families with children, are dis-preferred. This advertisement does not fall into any exception which allows discriminatory advertising based on familial status.

**Conclusion:** Advertising that states “Bachelor's house and no children. Would prefer female college student.” would likely suggest to an ordinary reader that families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory on the basis of familial status in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition or occupancy would be non-discriminatory.

## FAMILIAL STATUS AND SEX

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Mature female wanted”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that “indicates” any preference or limitation based on, among other factors, sex and family status. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). These statutes may be violated without a showing of a subjective intent to discriminate. To determine whether a statement “indicates” impermissible discrimination an “ordinary listener” or “ordinary reader” standard is used. *See State v. Keding*, 533 N.W.2d 305, 307 (1996), *Ragin v. New York Times Co.*, 923 F.2d 995, 999 (2d Cir.), *cert. denied*, 502 U.S. 821, 112 S.Ct. 81, 116 L.Ed.2d 54 (1991). The inquiry under this standard is whether the alleged statement at issue would suggest to an “ordinary listener” that people with a particular sex or familial status are preferred or dis-preferred for the housing in question. *Keding*, 533 N.W.2d at 307, *Ragin*, 923 F.2d at 999. These statutes may be violated without a showing of a subjective intent to discriminate.

Although there are some exceptions to fair housing law which allow discriminatory decision-making, only the exception for roommates sharing a living area allows the owner or occupant to *advertise* any preference, limitation, or discrimination based on sex. Iowa Code § 216.12(1)(f). If a shared living space is not involved, discriminatory advertising based on sex is impermissible. Housing for older persons is exempt from the advertising regulation regarding discrimination on the basis of familial status under both the Fair Housing Act and the Iowa Code if the housing meets the statutory criteria. 42 U.S.C. § 3607(b), Iowa Code 216.12(d).

**Analysis:** Advertising that states “Mature female wanted” explicitly states a preference based on sex. Because the advertisement is not for a roommate, it does not fall into the exception for sex discrimination. Iowa Code § 216.12(1)(f). Therefore, even if the housing provider can meet any other exception to fair housing law, it is still a violation of fair housing law to advertise a preference based on sex.

The advertisement would also likely suggest to an ordinary reader that a single adult is preferred, and that other applicants, such as families with children, are dis-preferred. The advertisement does not indicate the housing qualifies as housing for older persons under either the Fair Housing

Act or the Iowa Code, so it is not likely to be exempted from the prohibition against advertising a preference based on familial status.

**Conclusion:** Advertising that states “Mature female wanted” would likely suggest to an ordinary reader that men and families with children are unwelcome and discouraged from applying. Therefore, such a statement is discriminatory on the bases of sex and familial status in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Simply listing the number of bedrooms or size of the rental unit, without mentioning family composition or sex would be non-discriminatory. If the housing unit is exempt from the familial status advertising provision because it qualifies as housing for older persons, please remember to consult the specific state or federal housing program to determine the actual requirements, and advertise accordingly.

## NATIONAL ORIGIN

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “looking for a Desi/Indian person”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that indicates any preference, limitation, or discrimination based on, among other factors, national origin and race. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3).

There is an exemption to most provisions of fair housing law for “the rental or leasing of less than four rooms within a single dwelling by the occupant or owner of the dwelling, if the occupant or owner resides in the dwelling.” Iowa Code § 216.12(c), 42 U.S.C. § 3603(b)(2).

However, this exemption does not allow the owner or occupant to advertise any preference, limitation, or discrimination based on, among other factors, national origin or race. Iowa Code § 216.12(2), 42 U.S.C. § 3603(b).

**Analysis:** Advertising “looking for a Desi/Indian person” indicates a preference based on national origin and race. Although the owner or occupant would not be prohibited from choosing a roommate based on national origin or race, advertising such a preference is prohibited under both the Fair Housing Act and the Iowa Code. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3).

**Conclusion:** Advertising “looking for a Desi/Indian person” in a housing advertisement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Omitting any reference to national origin or race would be non-discriminatory.

## RACE

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “swm, seeking a swf”

**Law:** The Fair Housing Act and the Iowa Civil Rights Act prohibit the making or publishing of any statement or advertisement that indicates any preference, limitation, or discrimination based on, among other factors, race. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3).

The Iowa Code provides, “The provisions of sections 216.8 and 216.8A shall not apply to:

(f) Discrimination on the basis of sex involving the rental, leasing, or subleasing of a dwelling within which residents of both sexes would be forced to share a living area. § 216.12(1)(f).

There is an exemption to most provisions of fair housing law for “the rental or leasing of less than four rooms within a single dwelling by the occupant or owner of the dwelling, if the occupant or owner resides in the dwelling.” Iowa Code § 216.12(c), 42 U.S.C. § 3603(b)(2). However, this exemption does not allow the owner or occupant to advertise any preference, limitation, or discrimination based on, among other factors, national origin or race. Iowa Code § 216.12(2), 42 U.S.C. § 3603(b).

**Analysis:** Advertising “[f]emale wanted to share home and more” indicates a preference based on sex, which is permissible under the Iowa Civil Rights Act. Iowa Code § 216.12(1)(f). However, advertising “swm, seeking a swf” excludes all non-white applicants, thus discriminating on the basis of race. (“swm” is commonly understood to mean “single white male and “swf” is commonly understood to mean “single white female”) If this advertisement were merely a dating advertisement, it would be permissible, but a housing advertisement which excludes people from housing on the basis of race violates the Fair Housing Act and the Iowa Civil Rights Act. 42 U.S.C. § 3604(c), Iowa Code § 216.8(3). Although the owner would be allowed to discriminate based on race, he cannot *advertise* a racial preference, limitation, or discrimination.

**Conclusion:** Advertising “swm, seeking a swf” in a housing advertisement is discriminatory in violation of the Fair Housing Act, 42 U.S.C. § 3604(c) and the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Omitting any reference to race would be non-discriminatory.

## SEXUAL ORIENTATION

**Questionable or possibly discriminatory wording, phrases, photos, illustrations, symbols, or forms:** “Gay or female only”

**Law:** The Iowa Civil Rights Act prohibits the making or publishing of any statement or advertisement that indicates any preference, limitation, or discrimination based on, among other factors, sexual orientation and sex. Iowa Code § 216.8(3).

The Iowa Code provides, “The provisions of sections 216.8 and 216.8A shall not apply to: (f) Discrimination on the basis of sex involving the rental, leasing, or subleasing of a dwelling within which residents of both sexes would be forced to share a living area. § 216.12(1)(f).

There is no similar exemption for discrimination based on sexual orientation.

**Analysis:** Advertising “Gay or female only” indicates a preference based on sex, which is permissible under Iowa Code § 216.12(1)(f). However, this phrase also explicitly excludes heterosexual male applicants on the basis of their sexual orientation. The Iowa Code contains no exemption that allows discriminatory advertising on the basis of sexual orientation.

**Conclusion:** Advertising “Gay or female only” is discriminatory on the basis of sexual orientation in violation of the Iowa Civil Rights Act, Iowa Code § 216.8(3).

**Non-discriminatory phrasing suggestion:** Omitting any reference to sexual orientation would be non-discriminatory.

Analyses by Jessica Maffitt