

# Overview of Fair Housing Laws

April 18, 2023



**IOWA CIVIL RIGHTS  
COMMISSION** 

# Fair Housing Laws

- ▶ Iowa Civil Rights Act of 1965
- ▶ Fair Housing Act – Title VIII



# Fair Housing Laws



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

# What is Discrimination?

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

# Who is Protected Under Fair Housing Law?

Race

Color

National Origin

Disability

Sex

Familial Status

Gender Identity

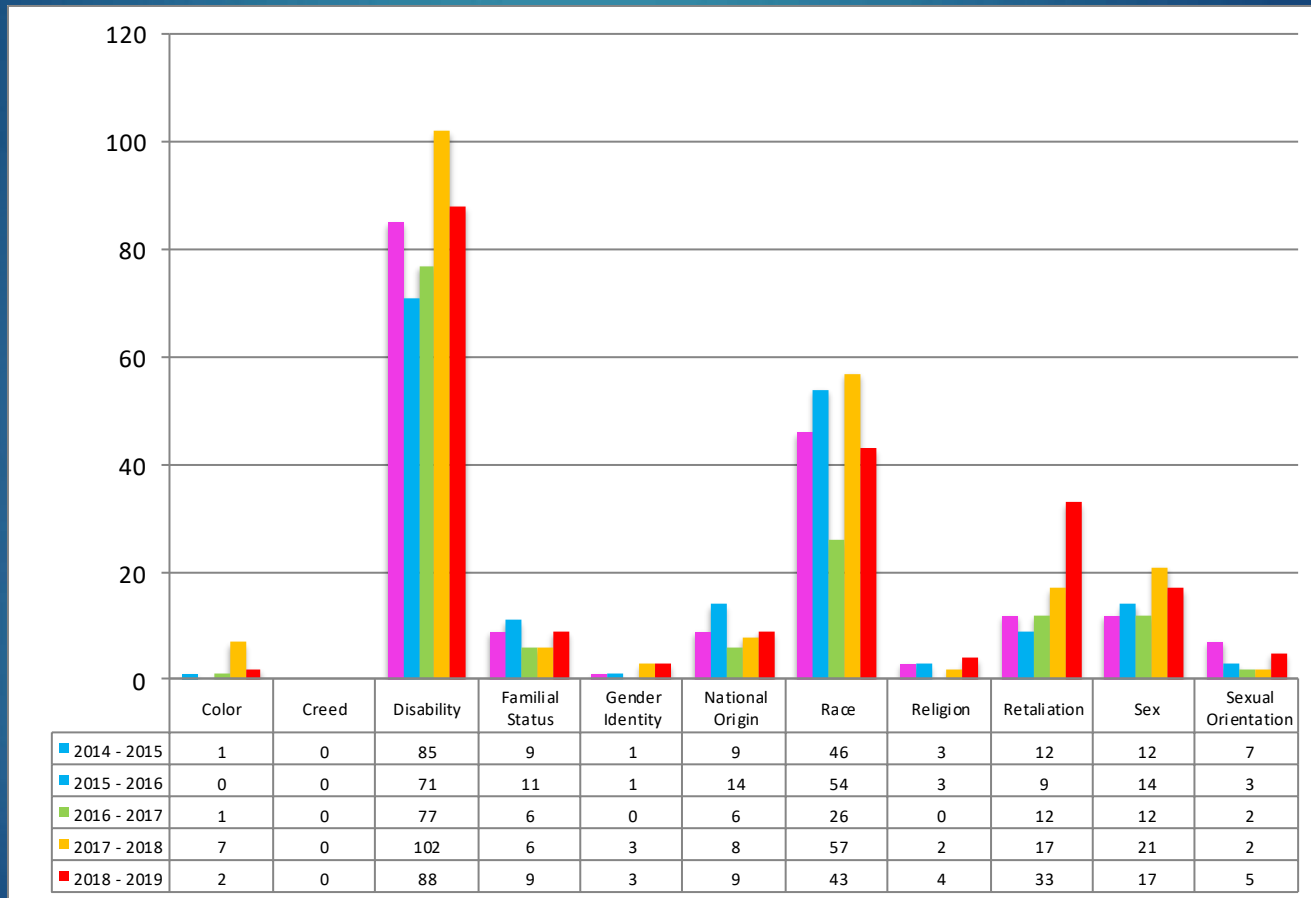
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Sexual Orientation

Religion



# Cases Docketed in Housing by Basis



# Who Must Obey the Law?

## “Housing Providers”

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



# Exemptions

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



# What is a Dwelling?



# What is a Dwelling?



# Discriminatory Practices

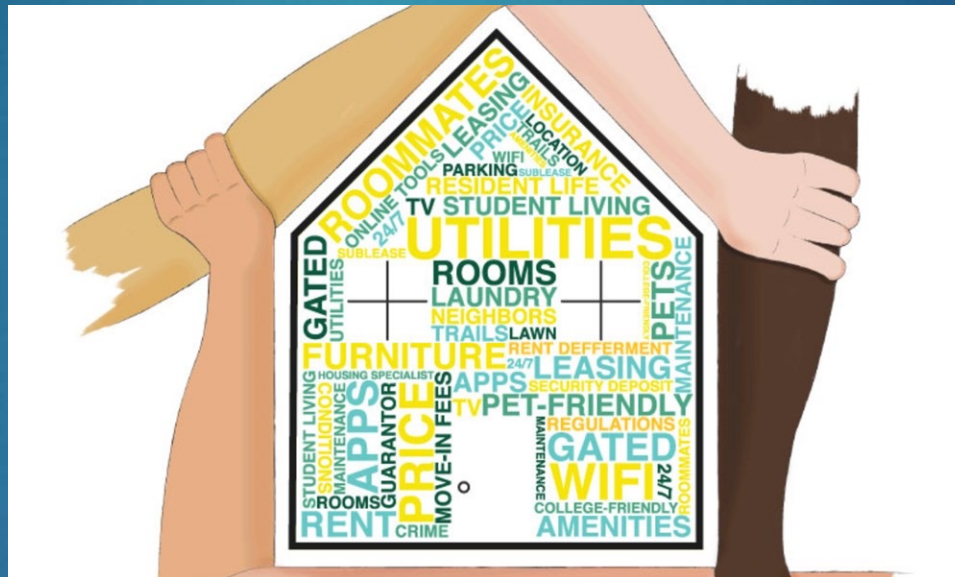
## Refusal to Rent, Make Unavailable



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

# Discriminatory Practices

## Terms and Conditions



[42 U.S.C. 3604 § 804(b)]

[Iowa Code §216.8(1)(b)]

# Discriminatory Practices: Discriminatory Statements

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



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



# Discriminatory Practices: Discriminatory Statements

The law applies to:

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

# Discriminatory Practices: Harassment

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

# Discriminatory Practices: Harassment

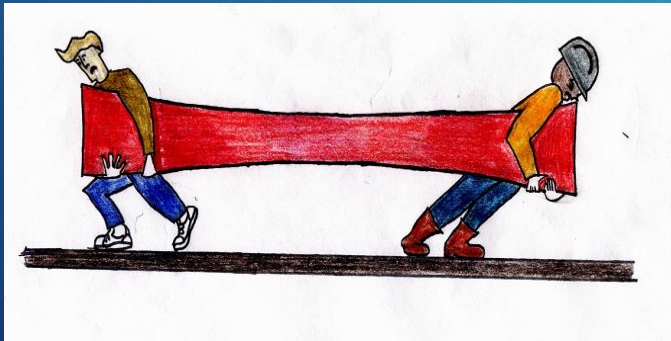
**Hostile Environment:** when a housing provider or other person with decision making authority creates or allows an abusive housing environment or interferes with the tenant's peaceful enjoyment of the property

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



# Discriminatory Practices

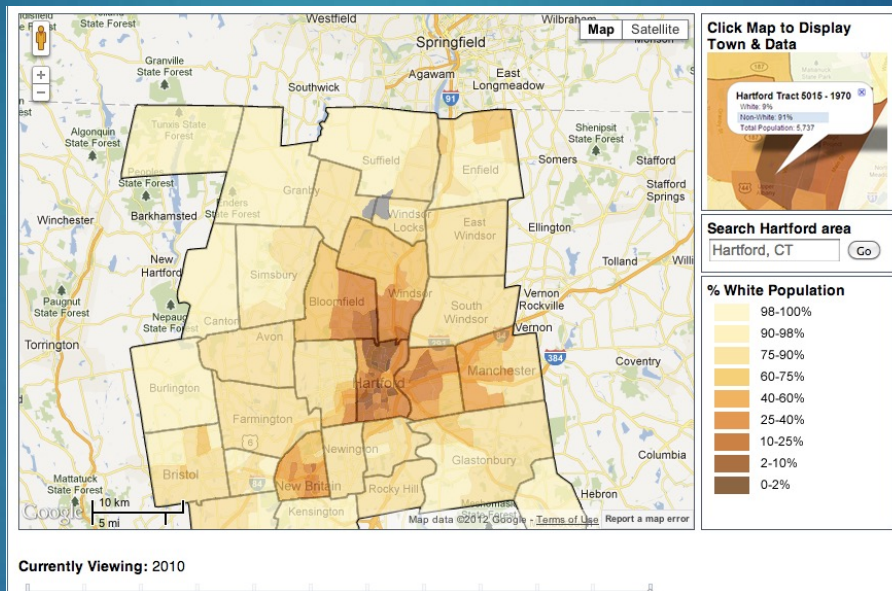
A housing provider cannot aid, abet, compel, or coerce another person to engage in an unfair or discriminatory practice.



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

# Discriminatory Practices

## Blockbusting



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

# Retaliation



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

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

[42 U.S.C. 3617 § 818]

[Iowa Code § 216.11A]

# Disability

Discrimination based on disability is prohibited in housing



# Discriminatory Practices

Design and Construction

## **Covered Multifamily Dwellings**

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

# Discriminatory Practice

Failure to meet Design & Construction Requirements

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

[42 U.S.C. 3604 § 804(f)(3)(C)]

[Iowa Code § 216.8A(3)(c)(3)]

# Discriminatory Practices

## Refusal to Permit Reasonable Modification

[42 U.S.C. 3604 § 804(f)(3)(A)]

[Iowa Code §216.8A(3)(c)(1)]



# Discriminatory Practices

## Refusal to Make Reasonable Accommodation

[42 U.S.C. 3604 § 804(f)(3)(A)]

Iowa Code §216.8A(3)(c)(2)





# Reasonable Accommodation

**What is a  
reasonable  
accommodation?**

# Reasonable Accommodation

A change, exception, or adjustment

- ▶ To a rule, policy, practice, or service
- ▶ That may be necessary for a person with a disability
- ▶ To have an equal opportunity to use and enjoy a dwelling

# Assistance Animals:

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

# Assistance Animals



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

# Assistance Animals



An assistance animal:

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

# Assistance Animals

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

# Reasonable Accommodation

**What is a request  
for a reasonable  
accommodation?**

# Assistance Animals

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





# Assistance Animals



**How is a request  
for a reasonable  
accommodation  
evaluated?**

# Assistance Animals



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

# Assistance Animals



**Does the person have a  
disability?**

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

# Assistance Animals



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

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

# Assistance Animals

Can a housing provider request documentation?



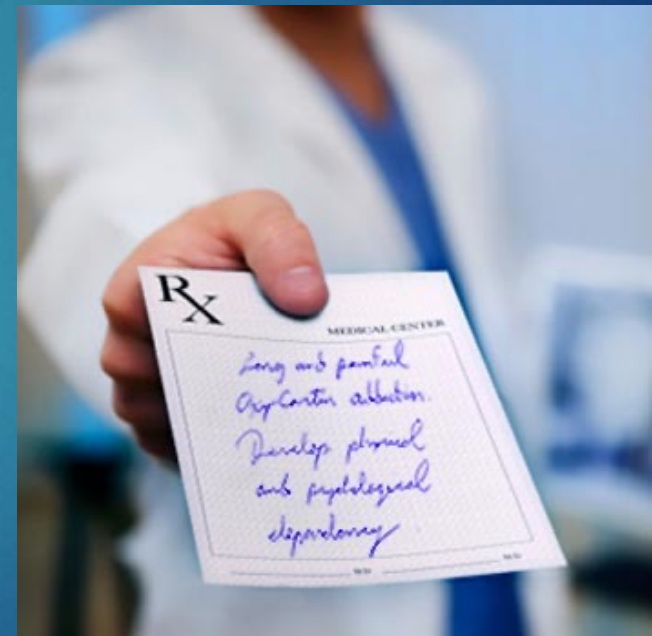
# Assistance Animals

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

# Assistance Animals

## Statements from:

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



# Assistance Animals

Finding of disability by licensee under Iowa Code chapter:

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

Iowa Code § 216.8C(1)



# Assistance Animals

If a patient or client requests, that licensee

“...shall make a written finding regarding whether the patient or client has a disability and, if a disability is found, a separate written finding regarding whether the need for an assistance animal or service animal is related to the disability.”

Iowa Code § 216.8C(1)

# Assistance Animals

- a. The licensee has met with the patient or client in person or by telemedicine.
- b. The licensee is sufficiently familiar with the patient or client and the disability.
- c. The licensee is legally and professionally qualified to make the finding.

Iowa Code § 216.8C(2)

# Assistance Animals

## New Health Care Professional Form

- ▶ Created as required by the amended Iowa Civil Rights Act.
- ▶ Find on Commission's website:  
<https://icrc.iowa.gov/>



Iowa Code § 216.8C(3)

# Assistance Animals



A landlord may deny a request for an exception to a pet policy if a person, who does not have a readily apparent disability, or a disability known to the landlord, fails to provide documentation indicating that the person has a disability and the person has a disability-related need for an assistance animal or service animal.

Iowa Code § 216.8C(5)

# Assistance Animals

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

Iowa Code § 216.8C(6)

# Assistance Animals

**What are the  
exceptions?**

# Assistance Animals



When accommodation may not be reasonable:

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

# Assistance Animals

Undue financial **AND**  
administrative burden

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



# Assistance Animals

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



# Assistance Animals

Poses a direct threat to health  
or safety of others

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

# Assistance Animals

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

# Assistance Animals

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

# Assistance Animals

- ▶ Subject to local licensing and vaccination requirements.
- ▶ Multiple animals?
  - ▶ Must be a disability-related need for multiple animals.

# Assistance Animals

What about tenant rules and regulations?

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

Iowa Code § 216.8B(3)

# Assistance Animals

A landlord **shall** waive lease restrictions and additional payments normally required for pets on the keeping of animals for the assistance animal...of a person with a disability.

Iowa Code § 216.8B(2)

# Questions?

