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# Fair Housing 101

## MHEC

Huntington Beach, CA

September 24, 2016

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# Fair Housing 101

## Federal

Title VIII of the Civil Rights Act of 1968 makes it illegal to discriminate in any type of housing based upon race, color, religion, sex, national origin, disability or familial status.

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# Fair Housing 101 - Seniors

**Senior housing is exempt from the “familial status” provision of the Fair Housing Act**

100% of the community is 62 or older

or

80% of the households have one resident 55 or older

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# Fair Housing 101

## State & Local Jurisdictions

**All over the board**

sexual orientation and gender identity

marital status

source of income (gov't assistance)

ancestry (ANDY - WE DON'T WANT THE IRISH)

Politics

veterans

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# Fair Housing 101 - Can't

**You can't do any of the following based upon protected classes:**

Refuse to rent or sell

Steering or misrepresent availability

Refuse to negotiate

Make housing unavailable

Limit use of facility

Change terms

Advertise in a discriminatory way

Fail to make reasonable accommodations

Threaten or retaliate

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# Fair Housing 101 - Can

**You can do any of the following:**

Set rent at market rates

Set and uniformly apply rental criteria

Set and uniformly apply occupancy criteria

Refuse to rent based on your criteria

Advertise to a protected class

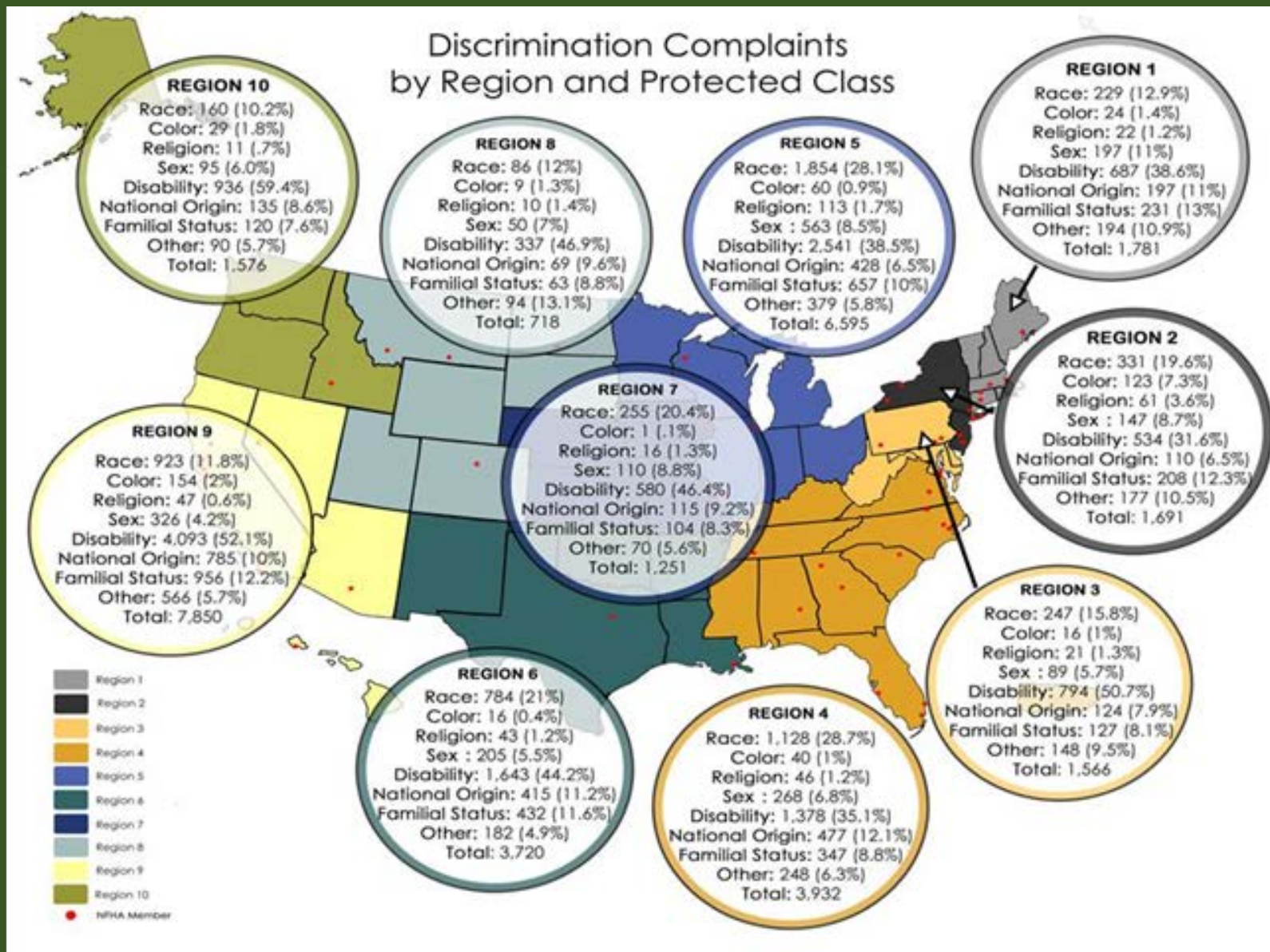
Evict

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# Fair Housing 101 – Claims by Region



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# Fair Housing 101 - Noncompliance

**Don't ask.**

**Your members can't afford it.**

Ft Myers, FL - \$40,000

Crown Point, IN - \$130,000

Ft Myers, FL - \$60,000



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## Fair Housing 101 – Testing

**Right now, someone in the state is in the field testing for discrimination in housing**

Two people

One in a protected class

And one middle-aged white guy

They are trying to isolate any differences in the way your facility treats the two potential tenants.

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## Fair Housing 101 – Testing

7. On or about April 28, 1999, Tester 1 telephoned Respondent and inquired about purchasing a mobile home at the subject property. Respondent told Tester 1 that he prefers that everyone be 55, or older, but that there are some younger couples in the park, but no children. Tester 1 asked about credit checks and approval. Respondent replied that he neither conducts credit checks nor relies on any other formal screening, but that “he can tell just by looking at you.”

8. On or about April 29, 1999, Tester 2 telephoned Respondent to inquire about the availability of mobile homes in the park. Tester 2 stated that she and her husband were interested in purchasing a mobile home for themselves and their two children. Respondent told her that there were mobile homes for sale in the park, but that children were not allowed to live in the park.

9. On or about April 30, 1999, Tester 3 telephoned Respondent telling him that she was looking for a space to rent for herself and her husband. Respondent told her that his property was an “adult” park which meant that residents were over the age of 55 and that no children were allowed. Respondent asked Tester 3's age. She replied that she was 45 and retired, but that her husband, also 45, was still employed. Respondent stated that he could make an exception which depended on whether they were “respectable.”



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# Best Practices – 4 Policies

General anti-discrimination

Reasonable Accommodation/Modification

Occupancy Standards

Rental screening

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## POLICY #1 - General

### General Non-Discrimination Policy

**{Community}** complies with the letter and spirit of the Fair Housing Act, the **{insert name of state act}**, and the **{insert name of local ordinance and governing body, if any}** that prohibits housing discrimination to certain persons under each law. No qualified person will be denied housing or otherwise discouraged from obtaining housing at **{Community}** because of his/her status under these laws.



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## POLICY #2 - Accommodations

A reasonable accommodation is a change made to a policy, program or service allowing a person with a disability to use the dwelling, such as:

a rental form in large print

a dedicated accessible parking space

allowing caregiver

moving monthly residents meeting to an accessible location

reading notices to tenants

**and**

**of course**

**service animals**

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## POLICY #2 - Accommodations

### A word about service animals

**Woof**

Same accommodation rules apply. You're allowed to request proof of the renters disability and documentation that the renter's Burmese Python is something more than a beloved pet.

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## POLICY #2- Modifications

A reasonable modification is a change made to a resident's living space or common area allowing a resident to use the property, such as:

a grab bar in a shower

installing a ramp

extra lighting

visual alarm system on smoke detector

non-slip strips on stairs

door bell flashers



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## POLICY #2 - DENIALS

**How do you deny any request for accommodation or for modification**

**Very carefully!**

**Make you process interactive**

**Give basis for denial**

**No disability exists**

**Undue influence or administrative burden**

**Alters the nature of your business**



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## POLICY #3 - Occupancy

### Pretty Simple

**{Community}** adheres to the Department of Housing and Urban Development Guidance on Occupancy Standards and **{insert name of local ordinance and governing body}**. Due to the guidelines set forth therein, the maximum occupancy within a manufactured home in **{Community}** shall be two (2) persons per bedroom.

But watch out for familial status issues.

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**MHI**  
Manufactured Housing Institute

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## POLICY #4 - Screening

### You can:

Determine if an applicant has the income and rental history to meet your criteria

Request identification

Run credit checks

### You Can't:

Discriminate!

Say a rental is unavailable when it actually is

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## POLICY #4 – Criminal Checks

April 4, 2016 – HUD issued a “guidance” on how the Fair Housing Act applies to the use of criminal history checks by housing providers.

Specifically the document “addresses how the discriminatory effects and disparate treatment methods of proof apply in Fair Housing Act cases in which a housing provider justifies an adverse housing action – such as a refusal to rent or renew a lease – based on an individual’s criminal history.”

Criminals are not a “protected class”

HUD is giving you a road map on how they are going to address discrimination in housing for criminals from a protected class

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# Fair Housing 101 - Advertising

**“Perfect for mature professionals”**

Target your advertising toward what makes the property desirable – size, location, price, amenities, etc.

**Except** --- you can target to one of the classes:

**“Accessible to persons with disabilities”**

**“Family playground”**

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# Fair Housing 101 - Agencies

There are agencies in each state focusing on fair housing issues geared to tenants but give advice to landlords

**They are also testing!**

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# Fair Housing 101 – Best Practices

- Post a brief written policy that complies with federal, state and local laws
- Follow written complaint process. Don't ignore a complaint.
- Educate employees about the policy and the need to obey fair housing laws. Train all employees. Sanction noncompliance.
- Adopt a written incident report for property managers. Consider a checklist. DOCUMENT. DOCUMENT. DOCUMENT.
- Include fair housing language in the lease.
- Advertise the property (not the tenants).
- Use the Equal Housing Opportunity logo on your advertisements.
- Maintain a current list of available units, so all are given the same information.
- Keep a copy of everything in LARGE PRINT.
- Treat everyone like they are a tester and self-test.