

50 Years of Fair Housing & the 2018 Updates for Advocates Reducing Homelessness

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Mid 1960's Dr. King raised attention to the issue of "Open Housing" which later became known as "Fair Housing."

- In 1965-1966, Dr. Martin Luther King, Jr. moved his crusade for Civil Rights to Chicago, in a campaign named **The Chicago Freedom Movement**.
- This campaign focused on housing equality and the elimination of slums.
- He did this in a series of nonviolent freedom marches in all-white neighborhoods during the summer of 1966.

Chicago Freedom Movement 1965-1966

- Photographer and Civil Rights activist, Bernard Kleina, documented the demonstrations and open housing marches.
- Depicted two things:
 - a relentless struggle for equality by African Americans and
 - growing resistance of working-class whites who feared the impact that open housing would have on their neighborhoods

Chicago Freedom Movement 1965-1966 – Kleina photos historical timeline

- 1965 – Beginnings of documentation
 - March 31, 1965 Bernie in Selma for March to Montgomery Al
 - July 26, 1965 Rally Buckingham Fountain in Grant Park on Columbus Drive in Chicago followed by the
 - March to City Hall from Buckingham Fountain
- 1966
- "Freedom Rallies and Marches"
 - July 10 1966 Soldier's Field Rally preceding March to City Hall with another rally and speech – first "Freedom Rally"; MLK posted list of Grievances
 - July 31, 1966 March in Marquette Park
 - August 5, 1966 March Marquette Park

Bernie Kleina
March 21, 1965
Selma Times
Journal Article about
March to
Montgomery Al



Chicago Freedom Movement

- Go to
- https://www.youtube.com/results?search_query=Miami+Valley+Fair+Housing+Center+

Grant Park 1965



Grant Park
1965



City Hall 1965



Soldiers Field



City Hall 1966



July, 1966
Marquette
Park Picket
Line



July 31, 1966
Marquette Park



August 5, 1966
Marquette Park



August 5, 1966
Marquette Park



August 5, 1966 Marquette Park



1965 Ohio Fair Housing Act

- 1965
 - In 1965, Ohio became one of the first states to enact Fair Housing Legislation.
- 1989
 - Judith Y. Brachman, Assistant Secretary for Fair Housing and Equal Opportunity in the Reagan Administration, grandfathered the Ohio law into **substantial equivalency in 1989, a goal that had eluded the state since 1965**

1965 Ohio Fair Housing Act

- 1992
 - On June 30, 1992, Republican Governor George Voinovich signed House Bill 321, which enacted changes in the classes of persons (adding disability and familial status like the federal law did in 1988) protected by the Ohio Fair Housing Law, and enhanced the enforcement powers of The Ohio Civil Rights Commission (OCRC).

1965 Ohio Fair Housing Act

- 2008-present
 - Since 2008, with HB 372, Ohio added "military status" as a protected class to the protected classes of ancestry, race, color, religion, sex, national origin, disability, familial status because there were complaints across Ohio of military personnel being denied rental housing because they are on active duty, or landlords refusing to accommodate former military personnel based on their type of discharge.
 - *Ohio Congress sent a clear message that discrimination against America's Armed Forces will not be tolerated.*



People with disabilities have specific coverage under Ohio Law – we will end today's presentation focusing on this section of Ohio Law and Federal Law

- (16) Discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any person or in the provision of services or facilities to any person in connection with the housing accommodations because of a disability of any of the following:
 - (a) That person;
 - (b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;
 - (c) Any individual associated with the person described in division (H)(16)(b) of this section.
- **4112.024 H (16) Ohio Revised Code .**



Dr. King and homelessness

- The last major speech Dr. King delivered, four days before his assassination, was on poverty at the National Cathedral, Washington, D.C., on March 31, 1968.
- He asked: "How can one avoid being depressed when he sees with his own eyes evidences of millions of people going to bed hungry at night? How can one avoid being depressed when he sees with his own eyes God's children sleeping on the sidewalks at night."



Dr. King in 1968

- "I would remind you that in our own nation there are about forty million people who are poverty-stricken. I have seen them here and there. I have seen them in the ghettos of the North; I have seen them in the rural areas of the South; I have seen them in Appalachia. I have just been in the process of touring many areas of our country and I must confess that in some situations I have literally found myself crying."



Dr. King in 1968

- "I stood in an apartment and this welfare mother said to me, "The landlord will not repair this place. I've been here two years and he hasn't made a single repair." She pointed out the walls with all the ceiling falling through. She showed me the holes where the rats came in. She said night after night we have to stay awake to keep the rats and roaches from getting to the children."



Dr. King in 1968

- "Poor people are forced to pay more for less. Living in conditions day in and day out where the whole area is constantly drained without being replenished. **It becomes a kind of domestic colony.** And the tragedy is, so often these forty million people are invisible because America is so affluent, so rich. Because our expressways carry us from the ghetto, we don't see the poor."



Dr. King in 1968

- “We read one day, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.” But if a man doesn’t have a job or an income, he has neither life nor liberty nor the possibility for the pursuit of happiness. He merely exists.”
- Five days later Dr. King was shot on the balcony of a motel in Memphis TN and killed.
- Seven days after his death, the Fair Housing Act was passed as Title 8 of the Civil Rights Act of 1968.



Fair Housing History

Fair Housing Act passed in 1968

- Title VIII of Civil Rights Act of 1968
- One week after assassination of MLK, Jr.



Dr. King and the legacy of open housing

- It would be another 19 years before there was a federal response to homelessness - The McKinney–Vento Homeless Assistance Act of 1987
 - provides federal money for homeless shelter programs and a
 - spectrum of services to homeless people,
- HEARTH Act in 2012 updated and consolidated CoC programs into:
 - Permanent housing (PH)
 - Permanent supportive housing (PSH)
 - Rapid rehousing
 - Transitional housing (TH)
 - Homeless prevention
 - Emergency Solutions Grant (ESG)



Today: Fair Housing Laws utilize named protected classes

FEDERAL

- Color
- Race
- Religion
- Sex
- Familial Status
- Disability
- National Origin

STATE AND LOCAL

- Age
- Marital Status
- Sexual Orientation
- Gender Identity/Expression
- Ancestry
- Military Status
- Source of Income



Based on protected classes, fair housing laws have specific prohibitions such as:

- Refusal to sell or rent
- Discriminate in the terms, conditions
- Discriminate in advertising
- Misrepresent the availability of housing
- Engage in steering based on protected class
- Refuse people w/disabilities exceptions to rules or modifications for access
- Discriminate in making loans, insurance policies, appraisals, & other real estate transactions
- To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of a fair housing right
- Engage in Racial or sexual harassment



30 years after McKinney-Vento implementation, guidance for homeless advocates is updated in 2017

- Notice: CPD-17-01 provides guidance on additional policies that CoCs and ESG recipients should consider incorporating into written policies and procedures to **achieve improved outcomes for people experiencing homelessness**.
- <https://www.hudexchange.info/resource/5208/notice-establishing-additional-requirements-for-a-continuum-of-care-centralized-or-coordinated-assessment-system/>
- google CPD-17-01, the link above will be at the top of the returns

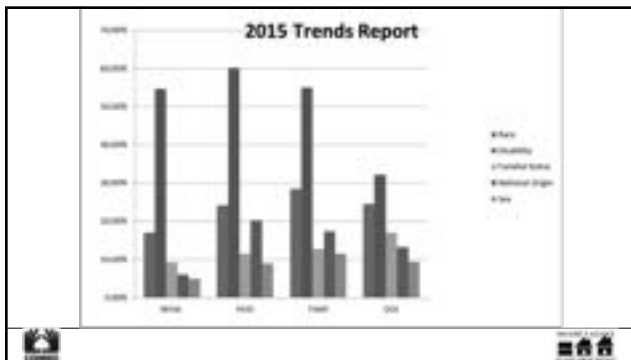


Today, we will **not** cover the CPD-17-01 updates on the following:

- **Access Points.** Access points are the places—either virtual or physical—where an individual or family in need of assistance accesses the coordinated entry process.
- **Distinct elements of the assessment and referral processes.** The processes of *assessment, scoring, prioritization* and *determining eligibility* comprise four distinct elements of the coordinated entry process that connect coordinated entry participants to potential housing and services.

We will cover updates on non-discrimination:

- Fair Housing Act
- Section 504 of the Rehabilitation Act
- Title VI of the Civil Rights Act
- Title II of the Americans with Disabilities Act
- Title III of the Americans with Disabilities Act



Use the correct definition of disability for the correct purpose!

- The Fair Housing Act's definition of person with a disability is used for purposes under the Fair Housing Act –
- not for example, for purposes governed by other laws such as the Americans with Disabilities Act which governs public accommodations or
- the Social Security Act Definition used by public housing authorities to determine eligibility.
- **MOST PEOPLE TRY TO APPLY THE WRONG DEFINITION TO FAIR HOUSING SITUATIONS AND THAT CAUSES PROBLEMS!**

Under Section 2.2 of the Public Housing Occupancy Handbook: Definitions of Eligible Families

- **A person with disabilities** is a person who is disabled as defined in 42 U.S.C. 423 (the Social Security definition);
 - is determined to have a physical, mental or emotional impairment that is expected to be of long-continued and indefinite duration;
 - is substantially impeded in his or her ability to live independently;
 - is of such nature that the ability to live independently could be improved by more suitable housing conditions; or
 - has a developmental disability as defined in 42 U.S.C. 6001.

Under fair housing laws, a person with a disability is any person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such impairment.

“physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting ...body systems [such as]:
 - neurological;
 - muscular-skeletal; etc.
- Any mental or psychological disorder, such as
 - mental retardation,
 - organic brain syndrome,
 - emotional or mental illness, and
 - specific learning disabilities.



“Major life activities” mean functions such as

- caring for one’s self,
- performing manual tasks,
- walking,
- seeing,
- hearing,
- speaking,
- breathing,
- learning and
- working.



“Has a record of such an impairment” means:

- has a history of,
- or has been misclassified as having,
 - a mental or physical impairment that substantially limits one or more major life activities.



“Is regarded as having an impairment” is defined as having

- a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a recipient as constituting such a limitation;
- has none of the impairments defined in this section but is treated by a recipient as having such an impairment;
- or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.



The Fair Housing definition of disability is used to assess requests for exceptions, called reasonable accommodations and/or reasonable modifications

- Requests for exceptions of rules/policies, activities etc. or changes in the physical structure:
 - Landlords should conduct the assessment on a case by case basis – cannot have a “one size fits all approach” – individualize!
 - Landlords must be prompt in response
 - Both parties must enter into interactive dialogue, advocates can be a positive force to facilitate this



Policy on Reasonable Accommodations –

- In some cases, a housing provider must consider alternative criteria as a reasonable accommodation to enable an applicant with a disability to establish eligibility.
- Some applicants may have special needs due to their disabilities, so simply treating them the same as others may not ensure that they have an **equal opportunity to use and enjoy the housing** which is a cornerstone of fair housing best practices.



Examples of reasonable accommodations

- Allowing a co-signer or third-party payee
- Waiving a garnishable income requirement for those receiving SSI/SSDI
- Waiving an employment requirement for those receiving fixed disability benefits
- Overlooking past tenancy, credit, and/or criminal issues if the issues are related to the person's disability and have been or will be mitigated

During tenancy, what information can landlords request from agencies that provide case management to the tenants?

- The disclosure of any therapeutic or disability-related information should be made only with the tenant's authorization and on a need-to-know basis.
- To effectively work through problems that arise, tenants may want landlords to share notices and tenancy-related information with their case managers.
- Tenants participating in a case management program may sign a **Release of Information** to allow this sharing of documents and information.

What can a landlord request from a case management service?

- Rental history, including shelter and transitional housing program history and references
- Credit history
- Criminal history
- Income
- Verification of housing subsidy/assistance
- Participation in money management and rental responsibility classes
- Repayment agreements for past debts

Landlords Processing a Request for RA/RM should use best practices

- Developing a standard procedure is a best practice
 - Keep in mind what needs to be clear:
 - You are happy to process the request for a disability-related need
 - Forms that can be used to facilitate the request
 - What exactly is being requested?
 - Does request warrant a third-party verification?
 - Who pays
 - When a decision will be made if not made at time of request
 - Other allowable requirements particular to your process
 - E.g. your firm prefers to do construction to keep costs down

Third Party Verifications for Reasonable Accommodation Requests – Expanded in 2013

- 2004 General Guidance for RA's
 1. Doctor/Medical professional
 2. Non-Medical Service Provider
 3. Peer Support Group or
 4. "a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability."
- 2013 Guidance for Assistance Animal for Emotional Support:
 1. a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability"

Joint Statement says:

- A provider has an obligation to provide **prompt responses** to reasonable accommodation requests.
- An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.

Best Practices for a Service animal Policy: Tenant Guidelines:

- The tenant/handler is responsible for the care of his/her service animal.
- The animal must be supervised and the tenant/handler must retain full control of the animal at all times.
- This generally means that while the animal is in common areas, it is on a leash, in a carrier, or otherwise in the direct control of the animal owner/handler.
- When in the presence of others, the animal is expected to be well behaved.



Making the Request for an accommodation/modification both say:

- Fair Housing Act does not require that a request be made in a particular manner or at a particular time.
- Request does not need to mention the Act or use the words "reasonable accommodation."
- Can be made by requester or third party requester can be made orally or in writing, (does not have to use provider's preferred forms)
- "Under the Act, a resident or an applicant for housing makes a reasonable accommodation request whenever she makes clear to the housing provider that she is requesting an exception."

