ACCOMMODATIONS IN HOUSING:
Protections, Practices & Solutions
Today’s training session will cover:

- Overview of fair housing laws, rules, and regulations
- Fair housing protections for people with disabilities
- Process for requesting accommodations and evaluating if the request is reasonable
- Examples accommodations
- Counseling and assistance resources in Pennsylvania
Housing Discrimination Statistics

- HUD estimates that more than 2 million instances of housing discrimination occur each year, but fewer than 1% are reported.
- Top bases of discrimination complaints filed in 2017 were on the basis of Disability (57%), Race (19%) and Family Status (9%).
- 91% of those complaints involved rental transactions.
- The top 3 issues for filing discrimination complaints:
  - Discriminatory terms and conditions
  - Failure to make a reasonable accommodation
  - Refusal to rent
Fair Housing Laws

- Title VIII of the Civil Rights Act of 1968, as amended in 1988 ("Fair Housing Act")
- The Architectural Barriers Act, 1968
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act, 1990
- PA Human Relations Act, 1955
- Local Fair Housing Ordinances or City Codes
Title VIII of the Civil Rights Act of 1968, as amended, Fair Housing Act (FHA), makes it unlawful to discriminate against individuals in housing transactions based on:

- Disability
- Race
- Sex
- Color
- National Origin
- Religion
- Family Status
Pennsylvania Fair Housing Laws

The Pennsylvania Human Relations Act offers legal protection in any housing transaction covering all classes of the FHA as well as:

- age (40 and over)
- the use of a guide or support animal
- the disability of an individual with whom the person is known to have a relationship or association
- pregnancy and ancestry
What is against the law?

- Refusing to rent housing
- Making housing unavailable or denying housing is available
- Setting different terms, conditions or privileges
- Discriminatory advertising
- Threatening, coercing or intimidating anyone exercising their fair housing rights or assisting others in exercising those rights
- Covered new construction housing that doesn’t meet accessibility in design and construction requirements
- Refusing to permit a reasonable modification or make a reasonable accommodation
Fair Housing Act: Covered Properties

- Apartments and condos
- Public housing
- Private housing
- Dormitories
- Mobile home parks
- Homeless shelters
- Nursing homes
Covered Transactions

- Rental
- Sales
- Lending
- Appraisals
- Zoning and land use
- Homeowners insurance
Fair Housing Act: Exemptions

- Owner occupied buildings with four or less rental units
- For Sale By Owner
- Housing run by religious organizations may limit occupancy to members
- Housing for Older Persons (100% of occupants 62 years or older -OR- 80% of households with at least one person 55 years or older)
- No exemption for discriminatory statements and/or advertising
PROTECTIONS FOR PEOPLE WITH DISABILITIES
Fair Housing Act: Disability Definition

A physical or mental impairment that substantially limits one or more of a person’s major life activities (e.g., breathing, hearing, walking, seeing, learning, speaking, caring for self, etc.)

Includes people with a history of having an impairment and people perceived as having an impairment.
Reasonable Accommodations

A reasonable accommodation is a change in rule, policy, practice, or service when such accommodation may be necessary to provide an equal opportunity for a person with a disability to enjoy his/her dwelling.

There must be a connection between the disability and the need for the accommodation.
Example Accommodations

- Printing notices and leases in large font
- Mailing or allowing someone else to pick up a housing application, where limited mobility makes it difficult
- Issuing monthly reminders
- Permitting a live-in aide/personal care attendant
- Allow termination of lease without penalty
- Allow transfer to a more accessible unit
- Tenant notification when landlord will use cleaning chemicals/spray
- Accepting an alternative reference from an applicant’s employer or social worker in lieu of a traditional housing reference, where a tenant’s past institutionalization means they have no rental history
What is Reasonable?

• Does not cause an undue financial and administrative burden
• Does not cause a basic change to the nature of the housing
• Will not cause harm or damage to others
• Is technologically possible

Questions a Housing Provider Cannot Ask:

Type of disability
Nature or severity of a disability
Questions that would require someone to waive their rights to confidentiality regarding medical condition or history
To see a prospective tenant’s medical records
Who is NOT entitled to a Reasonable Accommodation?

- Juvenile offenders
- Sex offenders
- Persons currently engaged in the illegal use of controlled substances*
- Individual with a disability whose tenancy would constitute a "direct threat" to the health or safety of another or result in substantial physical damage to the property of others **except when the threat can be eliminated or significantly reduced by a reasonable accommodation.**

* Persons who are recovering from substance abuse are protected under the Fair Housing Act, though not those with history of drug dealing or manufacturing
Verifying Disability & Need for Accommodations

- **If disability is obvious and need is clear:** no additional documentation should be requested

- **If disability is known, but need not clear:** request only information necessary to evaluate disability-related need (i.e. nexus - an explanation of the relationship between the disability and the need for the accommodation)

- **If disability and need are not known:** Landlord can request verification from a medical professional, professional service provider, a peer support group, or a reliable 3rd party who is in position to know about the individuals disability to indicate whether a tenant/applicant requires a reasonable accommodation or modification
Common Mistakes with Accommodations

- An unnecessary delay or failure to respond to a request
- Pressuring requestor into taking alternative accommodation
- Always requiring the form, process or rules for requesting accommodations or modifications
- Not engaging in the interactive process
- Not training all employees who deal with tenants/prospective tenants
Service Animal vs. Assistance Animal

**Service Animal** under the Americans with Disabilities Act (ADA) defines a "service animal" as a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability. (On rare occasions miniature horses have been approved.)

**Assistance Animals** under the Fair Housing Act and Section 504 Rehabilitation Act, are animals that alleviate one or more of the symptoms or effects of a person’s disability and can refer to a broader class of animals that assist persons with disabilities (including service animals).
Assistance Animals

A landlord, property manager, condominium board, or any other housing provider **CANNOT:**

- Deny a person with a disability the right to have an assistance animal or evict a person because they request an assistance animal
- Charge extra fees/deposits for an assistance animal
- Stall/delay responding to a request for an assistance animal
- Deny an assistance animal due to allergies/fear of animals of other tenants/residents
- Dictate the type, size or breed of assistance animal
Assistance Animals

A landlord, property manager, condominium board, or any other housing provider **CAN:**

- require a tenant to adhere to reasonable rules related to clean up, noise and control in common areas.
- hold a tenant liable for any damage his or her animal causes to the property.
- exclude support animals would cause substantial physical damage that cannot be reduced or eliminated by a reasonable accommodation.
- exclude support animals that are a direct threat to others that cannot be reduced or eliminated by a reasonable accommodation.
Accommodations for Criminal Backgrounds

A person with a criminal history who would otherwise be disqualified from a property **MAY** request an accommodation if the crime was a result of a disability.

A landlord can still reject someone who would pose a direct threat to the health or safety of others or a risk of substantial physical damage to others’ property.
Criminal Background Screening Policies

A criminal background policy may violate Fair Housing if there is a discriminatory impact on protected classes. Three step burden to prove:

1) Demographics and incarceration statistics showing protected classes have disproportionately high rate of arrest & incarceration

2) Housing provider must prove the policy has concrete reason to exist.

3) If shown that criminal history policy is necessary to achieve a nondiscriminatory interest, is there a less discriminatory alternative?
RESOURCES & ASSISTANCE
Filing a HUD Complaint

Housing & Urban Development Office
Office of Fair Housing and Equal Opportunity
888-799-2085
TTY: 800-927-9275

Also an option to contact the PA Human Relations Commission which also processes fair housing complaints:

**Pittsburgh Office**
412-565-5395
TTY: 412-565-5711

**Harrisburg Office**
717-787-9780
TTY: 717-787-7279

**Philadelphia Office**
215-560-2496
TTY: 215-560-3599
Fair Housing Tools & Resources

- **7 Days Video** - seven min video on history of the Fair Housing Act
- Housing Equality Center of Pennsylvania [Resources](#) & [Topics](#)
- **Design and Construction Check List** and the Fair Housing Checklist App – Equal Rights Center
- [PALawHelp](#) Fair Housing info and resources – and local legal assistance programs
- HUD Guidance:
  - [Reasonable Accommodations](#)
  - [Reasonable Modifications](#)
  - [Assistance Animals](#)
  - [Assistance Animals in HUD funded programs](#)
  - [Zoning and Land Use](#)
  - [Criminal Records](#)
  - [Olmstead Implementation](#)
Fair Housing Tools & Resources

- National Fair Housing Alliance
- Pennsylvania Human Relations Commission – Fair Housing Videos
- Know Your Rights as a Renter in PA
- Current and previous HUD funded fair housing enforcement and education grantees:
  - Housing Equality Center of PA
  - Fair Housing Rights Center of Southeastern PA
  - Southwestern Pennsylvania Legal Services, Inc.
  - Fair Housing Partnership of Greater Pittsburgh
  - The Reinvestment Fund
QUESTIONS?

Megan Bolin
Program Manager
Self-Determination Housing of Pennsylvania
mbolin@sdhp.org