

Fair Housing Basics, Reasonable Accommodations and Q&A

NEBRASKA EQUAL OPPORTUNITY COMMISSION



Introduction

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Today's Line-up



- ▶ **Intro to NEOC and Common Fair Housing Issues**
 - ▶ approx. 45 minutes
- ▶ **...brief break...**
- ▶ **Disability Accommodations**
 - ▶ approx 45 minutes
- ▶ **Q&A**

NOTES: Not a “legal update.” No CE available or other professional credit.

What is the NEOC?

- ▶ An administrative agency of the State that:
 - ▶ Receives, investigates, and renders formal determinations on charges filed
 - ▶ Conciliates/settles charges of unlawful discrimination
 - ▶ Provides information and assistance in matters of civil rights laws and compliance
 - ▶ Works with federal partners to investigate under “substantially equivalent” federal law



Areas covered by the NEOC

- ▶ Housing
 - ▶ Federal Partnership - HUD
- ▶ Employment
 - ▶ Federal Partnership - EEOC
- ▶ Public Accommodations

What is The Fair Housing Act



- ▶ Today we will be talking about the Fair Housing Acts:
 - ▶ Federal: Title VIII, The Fair Housing Act
 - ▶ State: The Nebraska Fair Housing Act
- ▶ They are Civil Rights laws
- ▶ What do these laws do?
 - ▶ Prohibit illegal discrimination in housing-related transactions (such as sale, rental, or financing)



Illegal Discrimination

**TREATING SOMEBODY
DIFFERENTLY BASED ON THEIR
PROTECTED CLASS**

Protected classes under the Fair Housing Act

Race

Color

Sex

Religion

National Origin

Disability

Family Status

Retaliation

Military and Veteran Status (9/2/2025)



Common Issues in Fair Housing

Refusing to Rent or Deal

Protected Class Based

After Accommodation Request

Criminal History

Fair Housing Hypotheticals: Refusal to Rent

A tenant searching for a home is told by a landlord that the apartment is no longer available after meeting the tenant in person and seeing that they are black, despite telling the same tenant the apartment was available only an hour before by phone before the landlord saw the tenant was black.

A landlord advertises a rental but tells a prospective renter with a service animal that 'pets' are not allowed and refuses to consider renting, despite the animal being a service dog.

Common Issues in Fair Housing



Terms & Conditions

Repairs

Different Rent Amounts

Fair Housing Hypotheticals: Terms and Conditions



A landlord rents two similar apartments, but requires a higher security deposit from a mother with children than from a single man, even though both have near-identical credit and rental histories.

A tenant asks for repairs in her unit, but the landlord responds quickly to repair requests from other tenants while repeatedly delaying her repairs.

A landlord allows tenants who do not have accents to pay their rent late without penalty but charges a late fee to tenants with accents for any delay.

Common Issues in Fair Housing

Harassment

Sexual

Race

Religious

Other



Fair Housing Hypotheticals: Harassment

A landlord begins making unwanted comments about a tenant's appearance and suggests rent could be lowered if the tenant goes on a date with him.

A tenant experiences a neighbor repeatedly making racist remarks and threatens toward him based on his religion. The tenant reports this to the landlord, but the landlord refuses to “get in the middle” of a “neighbor dispute.”

Common Issues in Fair Housing

Retaliation

Sudden Rule Enforcement

Eviction

Stopping Repairs

Fair Housing Hypotheticals: Retaliation

A tenant files a Fair Housing Complaint with the NEOC, and a week after the landlord is notified the tenant receives an eviction notice.

A landlord is confronted by a tenant who says, “I think you are discriminating against me because I’m black.” The landlord, annoyed, decides to stop repairing anything in the tenant’s unit.

A tenant requests a disability accommodation for a service dog. Soon after, the landlord begins conducting weekly inspections that they previously did not do.

Common Issues in Fair Housing



Advertisements

Overt Discriminatory
Statements

Implied Bias For/Against

Fair Housing Hypotheticals: Advertisements

A landlord has an apartment complex located directly on a busy highway, which he considers dangerous for children. In his advertisements on Zillow he includes, “Adults only due to proximity to highway.”

A prospective tenant is viewing ads for rentals and finds one that says, “Good clean Christian neighborhood.”

Common Issues in Fair Housing

Reasonable Accommodations

Animals

Parking

Moving/Let Out Early



Questions?

For housing questions or to file a complaint...
Call the NEOC at: (402) 471-2024
OR write to: neoc.intake@nebraska.gov
OR visit: <https://neoc.nebraska.gov/contact-us>





Accommodations & Assistance Animals

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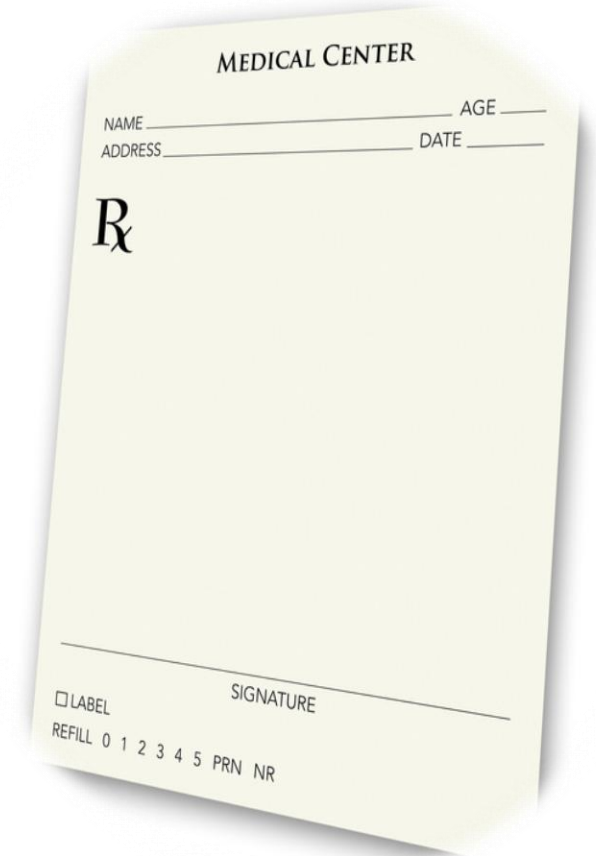
What is a Reasonable Accommodation?



Request for changes in the rules,
policies, practices, or services
necessary to afford a person with
a disability equal opportunity to
use and enjoy a dwelling.

Examples of ways an accommodation might be requested...

1. A tenant/buyer states an accommodation is needed.
2. A tenant/buyer submits a prescriptive note from a reliable third party (like a doctor, nurse, therapist, or other person with knowledge of the disability).
3. Someone acting on behalf of the person with a disability makes the request.



What is Reasonable?

- ▶ Does not pose a **financial and administrative hardship** (undue burden)
- ▶ Does not create a **safety/health threat** or **threat to property**.
- ▶ Is **not disruptive** to the peaceful enjoyment of other tenants
- ▶ Does not impose a **fundamental alteration in the nature of the housing provider's program**.

UNDUE BURDEN

Excessively costly, extensive, substantial, or disruptive, financially and administratively. Takes into account the cost of the accommodation in relation to the total resources of the landlord.



“Direct Threat”

The accommodation poses a health or safety issue to the housing provider, tenants, or others, and/or poses a threat of physical damage to the property of those people.



Disrupting Peaceful Enjoyment

If an accommodation would significantly disrupt the peaceful enjoyment of other tenants, it might not be reasonable.





Fundamental Alteration

Does the accommodation being requested fit within the scope of the services normally provided as a housing provider/landlord?

An accommodation request has been made... now what?

- ▶ The landlord's main obligation is to enter into the **interactive process**.
- ▶ *“A failure to reach an agreement [through the interactive process] is in effect a decision by the provider to not grant the requested accommodation.”* –HUD Guidance on Ras
- ▶ If the landlord stops the interactive process, the landlord is considered to be making a final decision.
- ▶ *“A provider has an obligation to provide prompt responses . . . delay in responding . . . may be deemed to be a failure to provide a reasonable accommodation.”* –HUD Guidance on RAs

An accommodation request has been made... now what?

- ▶ What can a tenant be asked to verify?
 - ▶ 1. Does the tenant have a disability / is a person with a disability?
 - ▶ 2. Is the accommodation necessary to alleviate a symptoms of that disability?
- ▶ Housing provider can't ask each individual question if that individual answer is apparent or obvious.



1. The landlord cannot charge a tenant for additional paperwork associated with making an accommodation
2. If a person needs help in completing application material, it should be provided
3. If a person fails to fill out your paperwork, you cannot deny the accommodation request solely on that factor.

Hoarding

If a housing provider moves to evict due to hoarding, and the tenant says the hoarding is due to a disability and requests “something,” that is a disability accommodation request.

The landlord should assess its reasonableness, grant the accommodation if reasonable, and work with the tenant to resolve the issue.

Considerations: Safety and Accommodation Feasibility,
Interactive Process

Assistance Animals



What is a service animal?

- ▶ Any animal individually trained to perform tasks for the benefit of a person with a disability
- ▶ No national standard regarding the training or performance of a service animal, including guide dogs
- ▶ This is an ADA term.



What is a companion animal?

- ▶ Also referred to as assistive, emotional support or therapeutic animals
- ▶ Typically for persons with mental or emotional disabilities
- ▶ Assist with depression or anxiety
- ▶ Provide emotional support
- ▶ There is no national standard regarding the training or performance of a companion animal.
- ▶ Companion animals are not included in the ADA.



What is an assistance animal?

- ▶ Assistance animal is a “blanket term” that covers both Service and Companion animals in housing and under the Fair Housing Act.
- ▶ In housing there is very little distinction between a service dog and a companion animal.



What about a pet deposit or fee? Fines and Charges?

NO deposits or fees allowed for accommodations, but...

1. Tenant is responsible for the actions of the animal
2. Tenant can be held accountable for any damage to property
3. Tenant must comply with established policies regarding maintenance and cleaning, or leash policies and noise guidelines



Where must one allow the animal on the property?

The service/companion animal must be allowed to accompany the tenant at all times, and everywhere on the property except where animals are specifically prohibited to maintain safe operation

Breed, size, and weight limitations do not apply to assistance animals.

Determinations that an animal poses a direct threat of harm to others must be made on an individual assessment based on objective evidence about the specific animal in question.

- Not mere speculation or worry.
- Not based on actual damage other similar animals have caused.



Recap: What a Landlord Can Do

- ▶ Housing provider should always enter into an interactive process.
- ▶ Housing provider can ask for a prescriptive note to determine if the person is disabled, and the person has a disability related need for the accommodation. Only can ask each of these things if not obvious.
- ▶ A housing provider can reject a requested accommodation if it is Not Reasonable. Have to be able to justify it isn't reasonable, and must use Interactive Process to explore alternatives.

Recap: What a Landlord Can Do (2)

- ▶ If the housing provider rejects an accommodation, they should work with the tenant to come up with alternatives that are reasonable through an interactive process. Just saying “no” is not acceptable in most circumstances.
- ▶ An accommodation can become unreasonable after it is granted if it becomes dangerous or is later found to disrupt the peaceful enjoyment of other tenants significantly.
- ▶ Although no fees/deposits, a tenant can be charged for damages after.

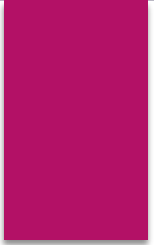
Two Most Common Violations re: Reasonable Accommodation

#1 Failing to provide an accommodation that you are legally obligated to provide.

#2 Failing to go through the proper process to deal with a reasonable accommodation request (interactive process), regardless of if the request is reasonable or not.

Scenarios

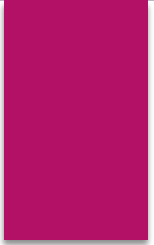




An apartment complex has a policy of providing a parking lot with unassigned parking spaces for residents. A resident with a mobility impairment, who uses a walker 100% of the time and who is known to the housing provider as limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a disability accommodation. There are available parking spaces near the entrance to her unit that are handicap accessible, but those spaces are available to all residents on a first come, first served basis.



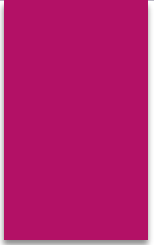
Scenario One



A tenant is found to be living in hoarder conditions, with belongings piling up and blocking exits and attracting pests. The landlord moves to end tenancy for safety reasons, but the tenant responds by saying the hoarding is due to disability and asks for time to clean and work with social services.



Scenario Two



A tenant is granted a disability accommodation for an assistance dog. Afterward, the landlord begins receiving genuine and documented complaints from several neighbor tenants that the assistance dog is causing problems such as growling and even lunging at people aggressively. Additionally, the tenant has been found to not be picking up pet waste.

Scenario Three



A landlord has a 3 page form for requesting a disability accommodation.

A tenant orally requests an accommodation, and the landlord provides the form to the tenant to fill out. The tenant fails to fill out the form, and comes back two weeks later and asks the landlord, “Why hasn’t my accommodation been granted yet?”

Scenario Four

Questions?

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