



Module 3: Fair Housing and Other Federal Regulations for Residential Rentals

Rental Housing Association of Utah

rhautah.org



Learning Objectives

1. Fair Housing Overview and Why It Matters
2. Protected Classes and Prohibited Conduct
3. Avoiding Fair Housing Liability
4. Enforcement and Adjudication
5. Other federal Regulations
6. Documentation, Consistency, and Training

Section 1

Fair Housing Overview and Why It Matters



The Purpose of Fair Housing Laws

In the United States, some groups or “classes” of people have not always had the same housing opportunities as others. Fair housing laws are intended to promote equal opportunity housing practices.



Equal Housing Opportunity



Housing isn't a right, but opportunity should never be denied because of membership in a protected class.

We are committed to equal housing opportunity and provide housing opportunity regardless of race, color, religion, sex, national origin, physical or mental status, source of income, sexual orientation or gender identity.



Why Fair Housing Matters to Rental Housing Operators

There can be significant penalties and liability for Fair Housing violations. There is also the potential for bad PR for Fair Housing allegations.



Penalties & Liability

There are two kinds of penalties possible for housing providers who violate Fair Housing laws:

1. \$10,000 administrative fine for the first violation (HUD or UALD)
2. Compensatory civil penalties (damages and suffering) and punitive damages to make an example out of violators to prevent future discrimination

It is essential that everyone who works with renters (including maintenance personnel) understands what is protected and treats everyone the same.



What Housing Providers Should Prioritize Concerning Fair Housing

- Ensuring the systems in place provide equal housing opportunity
- Understanding what characteristics and classes are protected
- Practicing consistency when dealing with applications and tenants
- Recognizing effect vs intent and the potential perceived discrimination



When Fair Housing Issues Are Likely to Arise

- Advertising and marketing
- Application screening and approval
- Denials and waitlist
- Reasonable accommodation and modification requests
- Emotional support animal request
- Non renewals and terminations

Intent vs. Effect

"It doesn't matter what the intent of the policy is – what matters is the policy's effect".

Intent

- Risk mitigation
- Convenience or Efficiency

Effect

- Treating people in a protected class differently
- Denying individuals equal housing opportunity

Example of Risk Mitigation Policies

Policy	Intent	Impact
Higher fees for emotional support animals/people with kids	Risk mitigation - to cover potential damages	People with kids and emotional support animals are charged more.
Not showing units by the pool to families with children	To keep kids safe	The housing provider is discriminating against familial status (steering).
Collecting applications for a week before comparing them to each other	Less work / More options	Some applicants may not have a fair opportunity to be considered.

Section 1 Knowledge Check

What is the purpose of fair housing laws?

A To guarantee everyone a right to housing

B To promote equal opportunity housing practices

C To set maximum rents

D To regulate landlord licensing

Section 1 Knowledge Check

What is the purpose of fair housing laws?

A To guarantee everyone a right to housing

B To promote equal opportunity housing practices

C To set maximum rents

D To regulate landlord licensing

Correct

Answer: B. Some groups have not always had the same housing opportunities, and fair housing laws are meant to promote equal opportunity. See slide 4.

Section 1 Knowledge Check

What is the administrative fine for a first Fair Housing violation (HUD or UALD)?

A \$500

B \$10,000

C \$1,000

D \$100,000

Section 1 Knowledge Check

What is the administrative fine for a first Fair Housing violation (HUD or UALD)?

A \$500

B \$10,000

C \$1,000

D \$100,000

Correct

Answer: B. Violators face a \$10,000 administrative fine for a first violation plus possible compensatory and punitive damages. See slide 7.

Section 1 Knowledge Check

Who needs to understand Fair Housing protections?

A Only the company's attorney

B Only leasing agents

C Everyone who works with renters,
including maintenance personnel

D Only the property owner

Section 1 Knowledge Check

Who needs to understand Fair Housing protections?

A Only the company's attorney

B Only leasing agents

C Everyone who works with renters, including maintenance personnel

D Only the property owner

Correct

Answer: C. Everyone who works with renters, including maintenance staff, must understand what is protected and treat everyone the same. See slide 7.

Section 1 Knowledge Check

When judging whether a policy is discriminatory, what matters most?

A The policy's intent

B The policy's effect

C Whether residents agreed to it

D How long the policy has existed

Section 1 Knowledge Check

When judging whether a policy is discriminatory, what matters most?

A The policy's intent

B The policy's effect

C Whether residents agreed to it

D How long the policy has existed

Correct

Answer: B. "It doesn't matter what the intent of the policy is – what matters is the policy's effect." See slide 10.

Section 1 Knowledge Check

Not showing units by the pool to families with children, to keep kids safe, is an example of:

A Disparate impact on source of income

B Familial status discrimination (steering)

C Good risk management

D A reasonable accommodation

Section 1 Knowledge Check

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A Disparate impact on source of income

B Familial status discrimination (steering)

C Good risk management

D A reasonable accommodation

Correct

Answer: B. Even with a safety intent, the impact is steering families with children away from units, which is familial status discrimination. See slide 11.

Section 2

Protected Classes and Prohibited Conduct



Knowing the 10 Protected Classes in Utah



7 FEDERAL



3 STATE



Federally Protected Classes

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

Definition of Disability

The definition of disability under federal law is a person who has any physical or mental impairment that substantially limits one or more major life activities, a person with a record of such physical or mental impairment or a person regarded as having such an impairment.

Definition of Familial Status

The definition of familial status under federal law is households containing one or more people under the age of 18 who live with a parent or guardian, pregnant women, foster families, people in the process of adopting a child under the age of 18 or households in the process of acquiring legal custody of a child under the age of 18.

Familial Status Discrimination

- Problematic areas involving familial status discrimination include:
- Unreasonable limits on the number of occupants
- Rules that disproportionately affect families with children

HUD Occupancy Standards

- HUD has issued guidance that you may be in violation of familial status discrimination law if your occupancy standard is less than 2 per bedroom +1
- **Sample rental criteria language:**
2 occupants per bedroom plus an additional occupant for each rental home (e.g. 3 in a one bedroom/studio, 5 in a two bedroom, 7 in a three bedroom, etc.)

HUD Occupancy Standards (Continued)

For applicants that do not qualify for familial status protection (roommates), you can set lower occupancy standards – however if there is a single pregnant person or person under 18, you have to use the HUD occupancy standards

HUD Occupancy Standards (Continued)

NOTE: Some Utah cities prohibit having more than 3 unrelated adults in a city with a university, or 4 unrelated adults in a city without a university

Utah Specific Protected classes

Sexual Orientation

means an individual's actual or perceived orientation as heterosexual, homosexual, or bisexual

Gender Identity

has the same meaning as provided in the Diagnostic and Statistical Manual (DSM-5) which an individual may show by providing evidence, including

Source of Income

means the verifiable condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements

What Constitutes Illegal Discrimination

The following activities are unlawful:

- Threatening, coercing, intimidating or interfering with anyone exercising a Fair Housing right or assisting others who exercise that right
- Advertising or making any statement that indicates a limitation or preference based on membership in a protected class
- Discriminating in housing due to membership in a protected class

Steering

The illegal practice of guiding renters towards or away from specific neighborhoods, buildings, or units based on protected characteristics.

Steering can be subtle and often disguises itself as helpful advice

Examples of Steering

- A leasing agent tells a family with young children that they can only rent ground-floor units, steering them away from upper levels
- A landlord only shows available units to minority applicants in areas of the complex where other minority tenants already reside
- A property manager places a wheelchair user on a waitlist for a specific accessible building, instead of showing them all available units
- A manager steers by commenting, "You'd probably be much happier across the street because there are families just like yours", limiting a family's housing options

There are 2 Types of Housing Discrimination

Disparate Treatment

Disparate Impact

Disparate Treatment

When someone in a protected class is treated **DIFFERENTLY** than somebody not in a protected class.

Disparate Impact

When a neutral policy or procedure has a disproportionately **NEGATIVE** impact on someone in a protected class.

High Risk Protected Classes in Utah

- Almost 80% of Fair Housing complaints are disability. Most of these are requests for emotional support animals.
- Other high-risk classes are familial status and source of income.



Disability Discrimination

A person with a disability has the right, under fair housing law, to request the following:

- Reasonable Accommodation
- Reasonable Modification

Reasonable Accommodation Requests

Under the Fair Housing Act (FHA), a **reasonable accommodation** is a change, exception, or adjustment to a rule, policy, practice, or service that would provide a person with a disability, an equal opportunity to use and enjoy a dwelling, including public and common use spaces.

Reasonable Accommodation Requests (Continued)

Reasonable accommodation requests include:

- The right to request rent reminders (for mental disabilities)
- Reserved accessible parking (for physical disabilities involving mobility)
- Other reasonable requests that would make renting easier for someone who is disabled
- By far the most common accommodation request, which property managers are required to allow, is the request for a service animal, companion animal, or emotional support animal (ESA)



Assistance Animals

There are two types of assistance animals:

- Service Animal
- Emotional Support Animal



Service Animal

An animal, typically a dog, that has been trained to assist a person who has a disability

**** 1% of Requests***



Emotional Support Animal

An animal, that provides support to individuals with a mental health or psychiatric disability

*** 99% of Requests**

Verifying Assistance Animals

To verify an assistance animal request, you can require a note (typically from a healthcare provider) that provides the following information:

1. The person is handicapped under the federal definition
2. The animal is medically necessary

Readily Apparent Rule

Any time a disability is readily apparent (we should approve it without conducting verification. Examples of readily apparent include if we can tell a person I blind or deaf or handicapped in a way that would require an assistance animal.

Reasonable Modification Requests

Someone with a disability also has the right under the law to make a request for a reasonable modification to the property. A modification is a change to the physical property. All reasonable modifications have to be allowed, however the renter has the responsibility to:

1. Pay for the modification
2. Ensure the modification conforms with city code, and property standards; and
3. Return the property to its original condition after they leave

Who is Exempt from Fair Housing?

You do not have to comply with Fair Housing Laws if:

- You own 3 or fewer rental units
- You own a 4 plex but one is owner-occupied

NOTE:

You are never exempt from Fair Housing Laws if you have a professional license for real estate (like a real estate sales or property management license, appraiser or mortgage broker)

You can NEVER advertise a discriminatory statement - even if you are otherwise exempt



Source of Income Discrimination

Utah Requires owners to rent to tenants receiving government assistance (like section 8 housing) as long as they meet your other requirements including putting down a deposit.

When considering income, it is advised to waive any income criteria since they qualify for this government program.

Source of income applicants should be treated the same as everyone else as far as qualification. Treat qualification as a tenant separate from qualification of the unit.

Advertising Prohibitions

- Housing providers may never advertise anything discriminatory
- Avoid language that implies limitations or discourages members from a protected class applying
- Even housing providers who are exempt from Fair Housing may never advertise anything discriminatory



Use of AI or Automated Screening Tools

Make sure a human being reviews and that no one who applies is denied equal housing opportunity.



Importance of Consistency

Best practices include written rental criteria, standardized application processing, using diverse applicant rule, consistent rule enforcement, clear documentation of decisions.

Section 2 Knowledge Check

How many protected classes are there in Utah?

A 3

B 7

C 12

D 10

Section 2 Knowledge Check

How many protected classes are there in Utah?

A 3

B 7

C 12

D 10

Correct

Answer: D. Utah protects the 7 federal classes plus sexual orientation, gender identity and source of income. See slides 23, 24 and 31.

Section 2 Knowledge Check

Which of the following is included in the federal definition of familial status?

A Adult roommates

B A married couple with no children

C A pregnant woman

D A college student living alone

Section 2 Knowledge Check

Which of the following is included in the federal definition of familial status?

A Adult roommates

B A married couple with no children

C A pregnant woman

D A college student living alone

Correct

Answer: C. Familial status covers households with someone under 18 living with a parent or guardian, pregnant women, foster families and families adopting or gaining custody. See [slide 26](#).

Section 2 Knowledge Check

According to HUD guidance, an occupancy standard below which level may violate familial status law?

A 1 per bedroom

B 4 per unit

C 2 per bedroom plus 1

D 3 per bedroom

Section 2 Knowledge Check

According to HUD guidance, an occupancy standard below which level may violate familial status law?

A 1 per bedroom

B 4 per unit

C 2 per bedroom plus 1

D 3 per bedroom

Correct

Answer: C. Sample criteria: 2 per bedroom plus one more per home (3 in a one bedroom/studio, 5 in a two bedroom, 7 in a three bedroom). See slide 28.

Section 2 Knowledge Check

A leasing agent tells a family with young children they can only rent ground-floor units. This is an example of:

A Disparate impact

B A reasonable accommodation

C The readily apparent rule

D Steering

Section 2 Knowledge Check

A leasing agent tells a family with young children they can only rent ground-floor units. This is an example of:

A Disparate impact

B A reasonable accommodation

C The readily apparent rule

D Steering

Correct

Answer: D. Steering guides renters toward or away from units based on protected characteristics and often disguises itself as helpful advice. See slides 33 and 34.

Section 2 Knowledge Check

What is disparate impact?

A Charging a higher deposit to all applicants

B Treating someone in a protected class differently

C A complaint filed by a tester

D A neutral policy that has a disproportionately negative impact on a protected class

Section 2 Knowledge Check

What is disparate impact?

- A Charging a higher deposit to all applicants
- B Treating someone in a protected class differently
- C A complaint filed by a tester
- D A neutral policy that has a disproportionately negative impact on a protected class

Correct

Answer: D. Disparate treatment is treating someone differently; disparate impact is a neutral policy with a disproportionately negative effect. See slides 36 and 37.

Section 2 Knowledge Check

Which protected class accounts for almost 80% of Fair Housing complaints?

A Source of income

B Religion

C Disability

D National origin

Section 2 Knowledge Check

Which protected class accounts for almost 80% of Fair Housing complaints?

A Source of income

B Religion

C Disability

D National origin

Correct

Answer: C. Most disability complaints involve emotional support animal requests. Familial status and source of income are also high risk. See slide 38.

Section 2 Knowledge Check

To verify an assistance animal request, what can a housing provider require a note to show?

A That the person is disabled under the federal definition and the animal is medically necessary

B The animal's training certificate

C Proof of pet insurance

D The person's full medical diagnosis

Section 2 Knowledge Check

To verify an assistance animal request, what can a housing provider require a note to show?

Correct

A That the person is disabled under the federal definition and the animal is medically necessary

B The animal's training certificate

C Proof of pet insurance

D The person's full medical diagnosis

Answer: A. A note, typically from a healthcare provider, can confirm disability under the federal definition and medical necessity. See slide 45.

Section 2 Knowledge Check

When a renter makes a reasonable modification, who is responsible for paying for it?

A The city

B The housing provider

C HUD

D The renter

Section 2 Knowledge Check

When a renter makes a reasonable modification, who is responsible for paying for it?

A The city

B The housing provider

C HUD

D The renter

Correct

Answer: D. The renter pays, makes sure it meets city code and property standards, and returns the property to its original condition after leaving. See slide 47.

Section 2 Knowledge Check

Who is NEVER exempt from Fair Housing laws?

A An owner with 3 or fewer rental units

B An owner who rents only to relatives

C An owner of a 4-plex who lives in one unit

D Anyone with a professional real estate license, such as a property management license

Section 2 Knowledge Check

Who is NEVER exempt from Fair Housing laws?

A An owner with 3 or fewer rental units

B An owner who rents only to relatives

C An owner of a 4-plex who lives in one unit

D Anyone with a professional real estate license, such as a property management license

Correct

Answer: D. Small owners may be exempt, but licensees never are, and no one may ever advertise a discriminatory statement. See slide 48.

Section 3

Avoiding Fair Housing Liability



First Qualified Applicant

Using the “First Qualified Applicant” Rule can help you avoid discriminating against anyone in these classes. The key to avoiding discrimination is treating everyone the same and understanding common mistakes that may be determined by the government to be discriminatory.



First Qualified Applicant Rule

1. Create Rental Criteria & provide to the applicant before accepting any fees
2. Create a sense of urgency by telling prospects you use the "First Qualified Applicant Rule" – in other words the first applicant who meets the criteria is guaranteed the rental
3. To be in line, prospects must have submitted a fully completed application and paid all monies due
4. Measure applicants (in the order received) against your criteria. Approve or Deny before considering next applicant

First Qualified Applicant Rule (Continued)

5. If you receive more than one application, consider any subsequent applicants only if current applicant is not approved
6. Do not process applications unless there is an available unit
7. Never compare applicants to each other



Avoid Imposing Personal Values on Others

Applicants should
be evaluated
against objective
rental criteria only.

Exceptions

- If you make an exception, this become a new rule
- Make sure all future renters are granted that exception if they ask
- You can be perceived to have discriminated if you don't give everyone the same exceptions

Avoiding Fair Housing Liability Recap

- Create rental criteria & measure applicants against this only
- Use the first qualified applicant rule
- Avoid imposing personal values on others
- If you make an exception this becomes a new rule
- **Clear policies and procedures for how to deal with reasonable accommodation requests (POSSIBLY REMOVE)**
- **Clear documentation for decisions (POSSIBLY REMOVE)**

Section 3 Knowledge Check

Under the "First Qualified Applicant" rule, who gets the rental?

- A The applicant with the highest income
- B The applicant the manager likes best
- C The applicant who offers the most rent
- D The first applicant who meets the rental criteria

Section 3 Knowledge Check

Under the "First Qualified Applicant" rule, who gets the rental?

- A The applicant with the highest income
- B The applicant the manager likes best
- C The applicant who offers the most rent
- D The first applicant who meets the rental criteria

Correct

Answer: D. Applicants are measured in the order received against the criteria, and the first who qualifies is guaranteed the rental. See slide 73.

Section 3 Knowledge Check

To be “in line” under the First Qualified Applicant rule, a prospect must:

A Provide a personal reference letter

B Tour the unit twice

C Sign the lease first

D Submit a fully completed application and pay all monies due

Section 3 Knowledge Check

To be “in line” under the First Qualified Applicant rule, a prospect must:

A Provide a personal reference letter

B Tour the unit twice

C Sign the lease first

D Submit a fully completed application and pay all monies due

Correct

Answer: D. Only complete applications with all monies paid hold a place in line. See slide 73.

Section 3 Knowledge Check

Which practice is part of the First Qualified Applicant rule?

A Compare applicants to each other

B Collect applications for a week and pick the best

C Do not process applications unless a unit is available

D Process every application received at once

Section 3 Knowledge Check

Which practice is part of the First Qualified Applicant rule?

A Compare applicants to each other

B Collect applications for a week and pick the best

C Do not process applications unless a unit is available

D Process every application received at once

Correct

Answer: C. Consider later applicants only if the current one is not approved, and never compare applicants to each other. See slide 74.

Section 3 Knowledge Check

What happens when a housing provider makes an exception to its criteria?

- A** The exception becomes a new rule for all future renters who ask
- B** It expires after 30 days
- C** It must be approved by HUD
- D** It applies only to that one renter

Section 3 Knowledge Check

What happens when a housing provider makes an exception to its criteria?

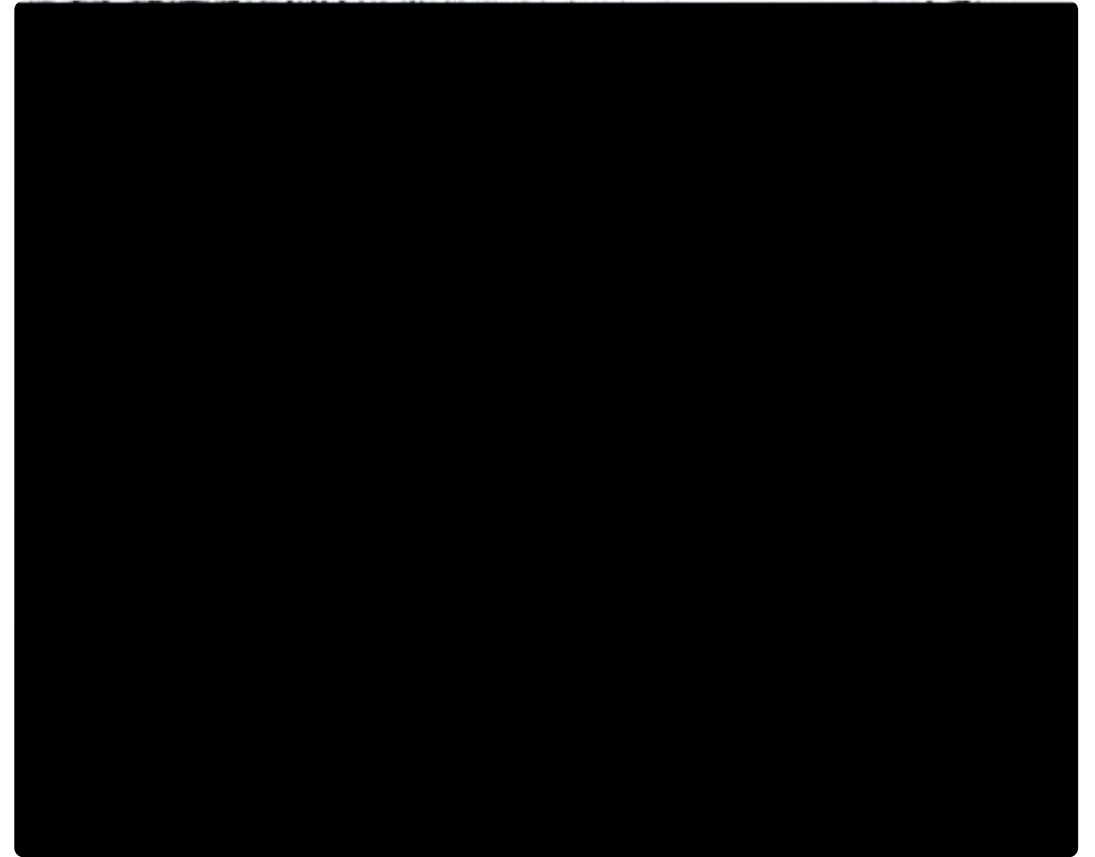
Correct

- A** The exception becomes a new rule for all future renters who ask
- B** It expires after 30 days
- C** It must be approved by HUD
- D** It applies only to that one renter

Answer: A. Failing to offer everyone the same exception can be perceived as discrimination. [See slide 76.](#)

Section 4

Enforcement & Adjudication



What Are Penalties for Violating the Fair Housing Act

1. \$10,000 administrative fine for the first violation
2. Compensatory civil penalties (damages and suffering) and punitive damages to make an example out of violators to prevent future discrimination
3. Punitive damages have run into the millions of dollars

Who Will be Liable for Violations

- Everyone involved in discrimination including:
 - Vendors
 - Leasing Staff
 - Management staff
 - Management company
 - Owner
- All parties can be held responsible but the ones with the deepest pockets are often greatest target

Who Does Fair Housing Enforcement?



Labor Commission
Antidiscrimination and Labor Division

Utah - UALD



Federal - HUD

Who can file a complaint to these agencies:

- Applicants
- Residents
- Former Residents
- FH organizations, or
- Other organizations

Investigations & Lawsuits

- Both HUD & UALD have investigative authority & can subpoena records
- Owners/managers may be required to provide documentation to the investigative agency
- Many owners/managers hire attorneys to guide them through the process
- Goal of investigative agency is to provide relief to complainant (if warranted)
- Goal of owners/managers is dismissal or settlement



Agencies/Third Parties Routinely Do Testing

- Paired testing
- Looking for red flags or different treatment of individuals in protected classes
- Treat every applicant like a tester
- Common fair housing testing areas include disability and source of income

Dealing With Testers

- Assume every interaction is with a tester
- Equivalent process procedure and criteria for everyone
- Consider a “script” for use with everyone
- When you show units make showings similar for everyone
- In application process make same for everyone
- Document everything

Red Flags

- Asking about the nature of a person's disability
- Additional fees for service animals
- Different treatment of protected classes
 - Referral to another complex for protected class applicant but not other
 - Told unit not available for protected class applicant but showed unit to other
 - Move-in special for other but not for protected class applicant



When to Involve Legal Counsel

Follow internal policies but consider reaching out to council if you have received a complaint from HUD or a state agency, investigator requests documents or interviews, demand letter alleges discrimination or a lawsuit is filed.

Section 4 Knowledge Check

Who can be held liable for a Fair Housing violation?

A Everyone involved, including vendors, staff, the management company and the owner

B Only the management company

C Only the leasing agent

D Only the property owner

Section 4 Knowledge Check

Who can be held liable for a Fair Housing violation?

Correct

A Everyone involved, including vendors, staff, the management company and the owner

B Only the management company

C Only the leasing agent

D Only the property owner

Answer: A. All parties can be held responsible, but those with the deepest pockets are often the biggest target. See slide 88.

Section 4 Knowledge Check

Which agencies enforce Fair Housing law in Utah?

A UALD (state) and HUD (federal)

B The county sheriff and the city

C The Division of Real Estate only

D The EPA and the FCC

Section 4 Knowledge Check

Which agencies enforce Fair Housing law in Utah?

Correct

- A** UALD (state) and HUD (federal)
- B** The county sheriff and the city
- C** The Division of Real Estate only
- D** The EPA and the FCC

Answer: A. The Utah Antidiscrimination and Labor Division enforces at the state level and HUD at the federal level. See slide 89.

Section 4 Knowledge Check

Which of these can file a Fair Housing complaint?

A Only attorneys

B Only current residents

C Only HUD employees

D A former resident

Section 4 Knowledge Check

Which of these can file a Fair Housing complaint?

A Only attorneys

B Only current residents

C Only HUD employees

D A former resident

Correct

Answer: D. Applicants, residents, former residents, fair housing organizations and other organizations can all file complaints. See slide 90.

Section 4 Knowledge Check

How should staff approach interactions, given that agencies routinely use testers?

- A** Ask prospects if they are testers
- B** Assume every interaction is with a tester
- C** Give testers a different script
- D** Avoid documenting showings

Section 4 Knowledge Check

How should staff approach interactions, given that agencies routinely use testers?

A Ask prospects if they are testers

B Assume every interaction is with a tester

C Give testers a different script

D Avoid documenting showings

Correct

Answer: B. Use the same process, criteria and showings for everyone, consider a script, and document everything. See slides 92 and 93.

Section 4 Knowledge Check

Which of the following is a Fair Housing red flag?

A Using written rental criteria

B Documenting decisions

C Asking about the nature of a person's disability

D Processing applications in order received

Section 4 Knowledge Check

Which of the following is a Fair Housing red flag?

A Using written rental criteria

B Documenting decisions

C Asking about the nature of a person's disability

D Processing applications in order received

Correct

Answer: C. Red flags also include extra fees for service animals and treating protected classes differently. See slide 94.

Section 5

Other Federal Regulations



Other Federal Regulations

- Lead based paint (EPA)
- Telecommunications Regulations (FCC)
- Fair Credit Reporting act (FCRA)
- Federal Pool Regulations
- Consumer Protection Issues, Disclosures & Fee Regulations (FTC)



Lead-Based Paint Requirements

- Lead exposure is hazardous to pregnant women and children
- Any Property Built before 1978 must provide lead paint disclosures so tenant can make an informed decision
- Fines & jail sentences may be imposed for violations of lead disclosure laws
- Sellers/landlords may owe financial damages and liability

Requirements of Owner/Managers

- Housing provider must provide EPA lead warning statement to applicant if unit is older than 1978
- Law requires you provide a copy of this pamphlet produced by the EPA
- Law requires housing provider collect signed disclosures confirming receipt by tenant



SAMPLE – Lead Warning Statement

Lead Warning Statement: Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, Owners must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Residents must also receive a federally approved pamphlet on lead poisoning prevention.

OWNER DISCLOSURE: (Initial where applicable if the Premises were built before 1978)

_____ **OWNER** has no knowledge of lead-based paint or lead-based paint hazards in the Premises.

_____ **OWNER** has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the Premises.

_____ **OWNER** has knowledge of lead-based paint and/or lead-based paint hazards present in the Premises, and hereby attaches all available records and reports pertaining to the same.

_____ **RESIDENT** has received the pamphlet *Protect Your Family From Lead In Your Home*.

_____ **RESIDENT** has received copies of all records and reports attached hereto.

_____ **RESIDENT** agrees to promptly inform OWNER in writing of any deteriorated and/or peeling paint in the Premises.

_____ **AGENT** has informed the lessor of the lessor's obligations under 42 U.S.C 4852d and is aware of the responsibility to ensure compliance.

Sample language – lead based paint

What is the: Renovation, Repair and Painting (RRP) Rule

EPA's Renovation, Repair and Painting Rule applies to paid work that disturbs painted surfaces in certain pre-1978 buildings.

When Does It Apply?

Applies to homes, child care facilities, and preschools built before 1978 when work is performed for compensation.

Who Must Be Certified or Trained?

- Firms/contractors must be certified, and workers must be trained by a certified renovator or be certified renovators themselves
- Property management companies that perform, offer or claim to perform work that disturbs paint in a pre-1978 residential building or child-occupied facility must become a lead-safe certified firm

Key Exceptions

- Homeowners working on their own pre-1978 home are generally exempt, unless they rent all or part of their home, run child-care there, or flip homes for profit
- Renovations affecting less than 6 sqft are not required to secure RRP certification

Who Runs the Program?

EPA administers most programs, but some states/tribes run their own authorized programs. **Utah is one of them.**

Telecommunications Regulations

Renters are protected by Federal Communications Commission (FCC) rules against predatory broadband and telecommunication monopolies. These regulations guarantee tenant's rights to competitive service choices. They prohibit owners from prohibiting personal antennas and require transparency regarding building-wide internet and cable agreements.

Key Telecommunication Requirements for Housing Providers:

- **Exclusive Access Agreements:** Landlords and Internet Service Providers (ISPs) cannot enforce contracts that grant a single provider exclusive rights to service or wire a property
- **Marketing Transparency:** If a building has an exclusive marketing arrangement with an ISP, the provider and building management are legally required to disclose this clearly in simple, plain language
- **No Revenue Sharing:** Landlords are barred from signing "sweetheart" agreements with telecom providers that require the ISP to pay the landlord graduated, success-based cuts of the building's internet revenues

Key Telecommunication Requirements for Housing Providers:

While building owners cannot force tenants to use only their preferred provider, they are allowed to establish reasonable restrictions to prevent damage to the property, such as barring installers from drilling through exterior walls or roofs.

Fair Credit Reporting Act

Under the Fair Credit Reporting Act (FCRA), landlords who use tenant screening or credit reports must have a legally recognized reason to access the data, obtain written consent, and provide specific notices if they deny housing, increase the rent, or demand a larger security deposit based on that report.

Rental Operators Must Establish Permissible Purpose

To request a consumer report, landlords must have a valid reason, such as evaluating a prospective tenant's rental eligibility, to find a tenant that is in collections or for any reason agreed to in the contract.

Rental Operators Must Obtain Written Consent:

Before requesting a credit or background check, the landlord must secure clear, unambiguous written permission from the applicant.

Rental Operators are Required to Provide Adverse Action Notices:

If an applicant is rejected, or if terms are changed (e.g., increased deposit, requiring a co-signer), landlords must issue an Adverse Action Notice. This must include:

- The name, address, and phone number of the consumer reporting agency (CRA) that supplied the report.
- A statement that the CRA did not make the adverse decision and cannot explain why it was made.
- Notice of the applicant's right to obtain a free copy of the report from the CRA within 60 days.
- Notice of the applicant's right to dispute the accuracy or completeness of the report directly with the CRA. [[1](#), [2](#)]

Federal Pool and Spa Safety Requirements

Federal requirements for apartment community pools primarily focus on public safety and anti-entrapment, accessibility, and fair housing anti-discrimination laws. While state and local health departments govern daily operations and maintenance, properties must strictly comply with these core federal regulations.

1. Virginia Graeme Baker (VGB) Pool and Spa Safety Act

- This is a critical federal **anti-entrapment law** enforced by the Consumer Product Safety Commission (CPSC).
- **Drain Covers:** All public and semi-public pools and spas must be equipped with compliant, anti-entrapment drain covers.
- **Systems:** Pools with a single main drain (other than an un-blockable drain) must also have a backup system installed, such as a Safety Vacuum Release System (SVRS).

2. Americans with Disabilities Act (ADA)

- The ADA requires that public and "semi-public" pools, including those in apartment complexes, be **accessible to people with disabilities**
- **Pool Lifts:** Pools must have a fixed (not temporary) ADA-compliant pool lift or sloped entry
- **Accessibility Rules:** Large pools (> 300 linear feet of pool wall) generally require two accessible means of entry. Smaller pools (< 300 linear feet) require at least one
- *Note:* If a residential pool is strictly private and never used by the general public or for commercial events, it may be exempt from strict ADA compliance; however, this is a heavily litigated area

3. Fair Housing Act (FHA) for Common Areas

- The FHA prohibits discrimination in housing, including the usage of community amenities like pools
- **Reasonable Accommodations:** Housing providers must allow "reasonable accommodations" to enable disabled access. For example, communities cannot ban service animals from the general pool deck area.
- **Familial Status Protection:** Pool rules cannot treat families with children differently than adults (e.g., "adult-only" swim times or completely banning children from using certain pools are considered discriminatory under the FHA). Rules must be based on objective swimming ability rather than age.

Anti-Trust Law

- Federal anti-trust laws are designed to promote fair competition
- These laws prevent businesses from engaging in conduct that improperly restrain the marketplace e.g. price setting, region splitting

Prohibited Activities

Antitrust laws prohibit landlords and property managers from engaging in collusive practices that undermine market competition. The three primary prohibitions enforced by the DOJ and FTC in the rental housing market are:

- **Price-Fixing:** Competitors cannot agree to set, maintain, or stabilize rent prices or lease terms. This includes "algorithmic collusion," where landlords use shared software to artificially inflate prices or coordinate unit availability
- **Market Allocation:** Rival property owners are banned from dividing geographic territories or agreeing not to compete in certain apartment submarkets or tenant demographics
- **Group Boycotts:** Landlords and managers cannot conspire to collectively refuse to do business with, or blackball, specific competitors, vendors, or suppliers



Penalties for Violating Anti-trust Law

- Penalties can be very severe and can include both financial damages and jail time
- Investigations can disrupt operations. Avoid any situations that could appear to violate anti-trust law

Industry Meetings and Association Events

As a PM, you may be asked to attend certain trade specific events; consequently, it is important to be mindful of anti-trust laws whenever discussing business with 2 or more people.

Software & Market Coordination Concerns

Software is Not a Shield

- Automated pricing or screening tech does not absorb your legal risk

The Compliance Bottom Line

- Federal agencies (HUD, EPA, FTC) hold the *housing provider* accountable—not the technology



Independent Decision-Making

- Operators should not rely solely on technology to make decisions but should make sure a human being reviews
- Your processes should ensure, when technology is involved, that, before a final approval is issued, a human being is involved



Fee Transparency and Consumer Protection Trends

- Federal agencies, state regulators, and advocacy organizations have increasingly focused on how housing providers advertise
- No longer a customer service issue, Fee Transparency is increasingly viewed as a legal compliance and risk management responsibility

Fee Transparency and Consumer Protection Trends

- Housing costs represent one of the largest financial obligations consumers face
- Regulators expect pricing and fee structures to be communicated clearly



Hidden Fees “Junk Fees” Concerns

- Some of the concerns among regulators are:
 - Mandatory fees not disclosed in advertising
 - Utility pricing left out during price discussions
 - Administrative charges introduced at lease signing
 - Required service packages after application approval

Fee Transparency Starts With Advertising

- Fee transparency starts before the lease is signed
- All mandatory rents/costs/fees & any additional requirements (e.g. yard maintenance) should be disclosed prior to application
- Advertisements must list mandatory rents/costs/fees and/or provide a link to more data on a website or contact information to discuss with a person

Consumer Protection and Risk Management

- Purpose of fee disclosure is to protect the public
- PM's should disclose all fee and charges that a tenant might see during their tenancy

Section 5 Knowledge Check

Lead-based paint disclosures are required for properties built before what year?

A 1960

B 2000

C 1978

D 1990

Section 5 Knowledge Check

Lead-based paint disclosures are required for properties built before what year?

A 1960

B 2000

C 1978

D 1990

Correct

Answer: C. Pre-1978 properties must provide lead disclosures. Violations can bring fines, jail sentences and liability. See slide 108.

Section 5 Knowledge Check

For a pre-1978 unit, what must the housing provider do?

- A** Give the EPA warning and pamphlet, and collect signed disclosures
- B** Nothing, if the tenant has no children
- C** Repaint the unit before every move-in
- D** Test every tenant for lead exposure

Section 5 Knowledge Check

For a pre-1978 unit, what must the housing provider do?

Correct

- A** Give the EPA warning and pamphlet, and collect signed disclosures
- B** Nothing, if the tenant has no children
- C** Repaint the unit before every move-in
- D** Test every tenant for lead exposure

Answer: A. Providers must give the EPA lead warning statement and pamphlet and collect signed disclosures confirming receipt. See slide 109.

Section 5 Knowledge Check

Under the EPA RRP rule, renovations affecting less than how much area do not require certification?

A 6 square feet

B 60 square feet

C 1 square foot

D 600 square feet

Section 5 Knowledge Check

Under the EPA RRP rule, renovations affecting less than how much area do not require certification?

Correct

A 6 square feet

B 60 square feet

C 1 square foot

D 600 square feet

Answer: A. The RRP rule covers paid work that disturbs paint in pre-1978 buildings; work under 6 sq ft is an exception. See slides 111 and 114.

Section 5 Knowledge Check

Under FCC rules, what can building owners NOT do?

A Set reasonable restrictions to prevent property damage

B Disclose marketing arrangements with ISPs

C Enforce exclusive service contracts with a single internet provider

D Bar installers from drilling through exterior walls

Section 5 Knowledge Check

Under FCC rules, what can building owners NOT do?

A Set reasonable restrictions to prevent property damage

B Disclose marketing arrangements with ISPs

C Enforce exclusive service contracts with a single internet provider

D Bar installers from drilling through exterior walls

Correct

Answer: C. Exclusive access agreements and revenue-sharing deals are barred, but reasonable damage-prevention rules are allowed. See slides 117 and 118.

Section 5 Knowledge Check

If an applicant is denied because of a credit report, what does the FCRA require?

A An Adverse Action Notice

B Nothing, if the denial is fair

C A second credit check

D A refund of the deposit

Section 5 Knowledge Check

If an applicant is denied because of a credit report, what does the FCRA require?

Correct

- A** An Adverse Action Notice
- B** Nothing, if the denial is fair
- C** A second credit check
- D** A refund of the deposit

Answer: A. The notice names the reporting agency, says it didn't make the decision, and explains the right to a free report and to dispute it. See slide 122.

Section 5 Knowledge Check

What does the Virginia Graeme Baker Pool and Spa Safety Act require?

A Saltwater filtration

B Compliant anti-entrapment drain covers

C Lifeguards at all times

D Pools to close at sunset

Section 5 Knowledge Check

What does the Virginia Graeme Baker Pool and Spa Safety Act require?

A Saltwater filtration

B Compliant anti-entrapment drain covers

C Lifeguards at all times

D Pools to close at sunset

Correct

Answer: B. Pools with a single main drain also need a backup system, such as a Safety Vacuum Release System. See slide 124.

Section 5 Knowledge Check

Under the Fair Housing Act, which pool rule is considered discriminatory?

A Requiring a key fob for all residents

B Adult-only swim times

C Posted pool hours for everyone

D Rules based on swimming ability

Section 5 Knowledge Check

Under the Fair Housing Act, which pool rule is considered discriminatory?

A Requiring a key fob for all residents

B Adult-only swim times

C Posted pool hours for everyone

D Rules based on swimming ability

Correct

Answer: B. Pool rules cannot treat families with children differently; they must be based on objective swimming ability, not age. See slide 126.

Section 5 Knowledge Check

Which of these is prohibited by antitrust law?

A Setting your own rents from market data

B Offering a move-in special

C Advertising rents online

D Competitors agreeing on rent prices, including through shared pricing software

Section 5 Knowledge Check

Which of these is prohibited by antitrust law?

A Setting your own rents from market data

B Offering a move-in special

C Advertising rents online

D Competitors agreeing on rent prices, including through shared pricing software

Correct

Answer: D. Price-fixing, including algorithmic collusion, market allocation and group boycotts are prohibited. See slide 128.

Section 5 Knowledge Check

When should all mandatory rents, costs and fees be disclosed?

A Only if the renter asks

B At lease signing

C After the first month

D Before the application, starting with advertising

Section 5 Knowledge Check

When should all mandatory rents, costs and fees be disclosed?

A Only if the renter asks

B At lease signing

C After the first month

D Before the application, starting with advertising

Correct

Answer: D. Regulators are focused on “junk fees.” Ads should list mandatory costs or link to where they're listed. See slides 135 and 136.

Section 6

Documentation, Consistency and Training (Risk Management)



Documentation, Consistency and Training (Risk Management)

Documentation

- One of the most powerful defensive tools a property management company has in regulatory disputes and court

Consistency

- Standardizing operational workflows minimizes exposure to discrimination and compliance claims

Training

- Ensuring staff can independently execute compliance policies across all properties

Consistency Reduces Liability

- Treat everyone the same
- Have written policies and procedures to maintain consistency and trust



Training as an Ongoing Operational Responsibility

Compliance training is not a one-time event; laws change and staff turnover necessitates ongoing training

Section 6 Knowledge Check

Which is described as one of the most powerful defensive tools a property management company has?

A Documentation

B Verbal agreements

C A large marketing budget

D Online reviews

Section 6 Knowledge Check

Which is described as one of the most powerful defensive tools a property management company has?

Correct

A Documentation

B Verbal agreements

C A large marketing budget

D Online reviews

Answer: A. Documentation is a key defense in disputes and court; consistency and training reduce exposure further. See slide 157.

Section 6 Knowledge Check

How does consistency reduce liability?

A By treating everyone the same, using written policies and procedures

B By letting each manager use their own judgment

C By changing rules for each applicant

D By avoiding written records

Section 6 Knowledge Check

How does consistency reduce liability?

Correct

A By treating everyone the same, using written policies and procedures

B By letting each manager use their own judgment

C By changing rules for each applicant

D By avoiding written records

Answer: A. Treating everyone the same and following written policies maintains consistency and trust. See slide 158.

Section 6 Knowledge Check

Why must compliance training be ongoing?

- A Laws change and staff turnover happens
- B It replaces written policies
- C It is only needed once at hiring
- D It is required only for owners

Section 6 Knowledge Check

Why must compliance training be ongoing?

Correct

- ☒ A Laws change and staff turnover happens
- ☐ B It replaces written policies
- ☐ C It is only needed once at hiring
- ☐ D It is required only for owners

Answer: A. Compliance training is not a one-time event; changing laws and new staff require ongoing training. See slide 159.