



Inadvertant Equal Housing Opportunity Denials

10:30 AM

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Titan Legal

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2025 Fair Housing Education Conference & Trade Show

Welcome to Today's Class!

A few announcements before we get
started...



Education Resources

All of the presentations and handouts from today's conference are available online for you access during class or afterwards by scanning the QR Code to the right.



Scan QR Code
for Access:





Lunch Time Prize Giveaways

Lunch is in **Hall 4**, which you can get to from the tradeshow floor on the South/East side. **There will be \$10K in prizes given away - 1 in 15 can win!**





As you visit the tradeshow floor, remember to get your signature card filled out. Turn it in at registration by 3:15 PM to be entered to **win two \$500 Cash prizes** at the 3:30 closing ceremonies, also in Hall 4.

Entrance

MOEN










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bcs
CONSTRUCTION

HECC
Construction


Resident IQ

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|--------------------------------|---|---|---|--|--|
| Business & Home Improvement |  |  |  | | |
| Precision Concrete | | | | | |
| Intelligent |  |  | | | |
| Keytrak | | | | | |
| Services of Scottsdale | | | | | |
| Apartments.com |  |  | | | |
| Business |  |  | | | |
| Home | | | | | |
| Laundry | | | | | |
| Activity | | | | | |
| Services of Scottsdale | | | | | |

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|-------------------------------|-------------------|
| HD Supply | |
| Metro Networks | Atlas Disposal |
| MetMab | DC Electric |
| Park M | Service Depot |
| Interior Logic Group | All Decan |
| Pittsburg Paines Co. | Squire & Company |
| Mountain West Real | Scattergully Utah |
| Zillow Rentals | State Fire |
| Liveabo | Work Landscaping |
| AIM Apartment Date | |
| Alpine Cleaning & Restoration | |

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|-----------------------------|--------------------------|
| Breakroom Choices | |
| Roto-Rooter Service | Cutting Edge Landscape |
| Top Job Asphalt | QuickTurns Soil Care |
| Mendenhall Laundry | Stemium Insurance Agency |
| Leisure Creations Furniture | Dynamic National |
| Leisure Creations Furniture | AMSCO Windows |
| Junk King | |
| EX Paint & Resurfacing | Reina Finishing Systems |
| Bliss Cleaning Service | |
| Corona Painters | Swift Integrated Systems |
| Renaissance Services | |



WIN \$500!

- Visit Each Booth
- Have each Vendor Initial their space
- Turn your card into RHA booth by 3:15pm

Two Winners Drawn at 3:15pm Closing Ceremonies

RHA P.A.C. Fundraising Giveaway

Donate at least \$25 to the RHA PAC, you can be entered to win a \$500 Cash prize at 3:30 Closing Ceremonies!



Rental Housing Association of Utah P.A.C.

Why Donate to the RHA P.A.C. (Political Action Committee)?

"Every man owes a part of his time to the business in which he is engaged. No man has the moral right to withhold his support for an organization that is striving to improve condition within his sphere"

- Theodore Roosevelt

Scan Me To
Donate Today



www.rhautah.org/event-pac-donation

The RHA P.A.C. Funds Efforts That:



Monitor legislative and regulatory issues at the local, state, and federal level.



Help elect and maintain officials who are supportive of property rights.



Support balanced laws and suggest alternatives to ineffective ones.



Build relationships with other stakeholders, including local governments and advocacy groups.

Class Surveys

Everyone who submits a survey will be entered to win a \$50 Prize at closing ceremonies at 3:30!



Scan QR Code
to submit your
Survey



e QR



Thank you to our class Sponsor!



This class is sponsored by: Breakroom Choices



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Equal Housing Statement

“We are committed to equal housing opportunity and provide housing opportunities regardless of race, color, religion, sex, national origin, physical or mental disability, or familial status”

Fair Housing – What is Illegal

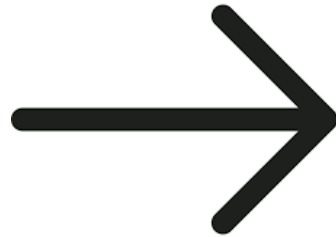
The following activities are unlawful:

- 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**

Enforcement

Through third parties:

State & Local
Legal Aid &
Support Groups



Penalties for FH Violations -

1. \$10,000 administrative fine first violation
2. Compensatory civil penalties (damages and suffering)
3. Punitive Damages

We have seen \$1 million penalties. Many settlements are \$25,000-\$75,000

Two “types” of discrimination -

1. Disparate Treatment. This is when someone in a protected class is treated differently.

2. Disparate Impact. This is when a neutral policy or procedure has a disproportionately negative impact on someone in a protected class.

Exemptions

You do not have to comply with Fair Housing Law if you own less than 4 rental units or if you own a four-plex and live in one unit. You are never exempt from Fair Housing Law if you have a professional license for real estate (like a realtor, appraiser or mortgage broker).

First Five Protected Classes

- Race
- Color
- Sex
- Religion
- National Origin

Warning - You are never exempt from advertising



Familial Status

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, households in the process of acquiring legal custody of a child under the age of 18.

Disability

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.

Disability Discrimination - Reasonable Modifications and Accommodations

Modification – A physical change to the structure of the property like ramps, grab bars etc.

Accommodation – A change in rules, policies procedures like allowing an animal (if pets are prohibited), reserved accessible parking and rent reminders

Reasonable Modifications

Renter Responsibilities

1. Pay for the modification (unless federally subsidized)
2. Ensure the modification conforms with city code, and property standards
3. Return the property to its' original condition after they leave (don't be punitive)

Reasonable Accommodations

1 – Landlord has the right to verify a person qualifies as “handicap” under federal law and the accommodation is medically necessary
BUT don't be petty

2 – Consider saying yes to the request and dealing with any issues through lease (like animal rules, peaceful enjoyment, etc)

Animal Request Verification Process

Three things looking for:

1. Is the person handicapped?
2. Is the animal medically necessary?
3. Does a professional affirm?



Cannot Require Specific Forms when...

1 – “Obvious” disability – Readily Apparent

2 – You can collect similar data but can’t force a particular form. Their info just have to be substantially similar

*****These Instructions are for instructional purposes only, and should not be given to a resident as part of the Assistance Animal request packet.**

Assistance Animal Forms Instructions

Please read and review before use of these forms.

1. Remember that neither HUD nor any other government agency has “approved” the forms. Usage always has some risk. Also, every case is independent and should be reviewed on its merits and facts.
2. This form is for any Assistance Animal wherein it is not readily apparent the need for the animal. Service animals where the need is apparent need not use this form but should still provide the information on the Animal Identification Form.
3. You can require the information on the animal and ask that the Resident affirm their request for the Assistance Animal.
4. Give them the medical professional form as a guide. If the medical professional does not want to sign it and provides substantially the same information in another format, it must be accepted. Remember to review your policy on who can provide this information.
5. If the Resident provides any documentation from a medical professional or other qualified person, it should be reviewed to make sure it provides sufficient information to confirm the status and nexus. If not, an attempt to get verification of the information needed directly from the person who signed the form should be first attempted.
6. THE HIPAA FORM IS NOT REQUIRED. Many medical professionals will not discuss the patient without the HIPAA form. Verification does not require the HIPAA form. Explain to the medical professional that you are merely verifying the information that has already been provided. If you are unable to verify, you should inform the Resident of the problem to see if they cannot get the medical professional to provide the verification. Seek assistance from legal counsel and/or your regional manager in this circumstance.
7. It is the intent of these forms to gather sufficient information and verify that information to determine if a reasonable accommodation should be granted or not.
8. Failure to provide sufficient information may be grounds for denial. Sufficient information would include: a description of the animal, verification from someone that the Resident meets the definition of disabled and that there is a nexus between the disability and the need for the animal, and the other information contained on the Animal Identification Form.
9. **All communities should have animal rules. Persons who obtain an animal by reasonable accommodation generally must abide by those rules (excepting breed restrictions and size & weight restrictions). Those rules should be given to residents with animals.**
10. The forms should not be given out unless someone has filled out an application and is actually attempting to rent.
11. Questions on Assistance Animals from prospective residents should be answered:
This Community fully complies with the Fair Housing laws as it applies to disabilities. Persons who desire an accommodation must convey that request to management, who will then attempt to obtain sufficient verified information to determine if the request can be granted and how it can be accommodated. Since every situation is different, each request is treated separately. It is impossible to give a blanket answer on questions of accommodation. If a prospective tenant desires to apply, we will then accept any request and make a full review to see if it can be accommodated.
12. If you have any questions on a request, contact legal counsel.
13. If you think someone is testing your community on reasonable accommodation, contact your regional manager/owner and contact legal counsel.

Resident's Request for Assistance Animal

The undersigned does hereby request a assistance animal and does hereby attest and state as follows:

1. Handicap Definition I am aware of the requirements of the Fair Housing Act and its definitions which include:

"Handicap" means, with respect to a person –

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

2. Qualification Pursuant to the definition above, I do qualify and am or have been under the care of a medical professional for my disability; or have been so diagnosed with a permanent disability to no longer require medical supervision

3. Impairment I represent that the requested assistance animal is necessary to provide assistance with my disability.

The anticipated length of this disability is _____.

My primary care physician is Dr. _____ whose telephone number is _____.

4. Request I do hereby request that I be able to reside with a assistance animal at the premises below. I certify that the statements herein are true and have been provided herewith an Animal Identification Form and a Medical Request for a Assistance Animal. I agree that the only animal I will keep for this purpose is listed therein and that I will abide by the rules and regulations of the community regarding animals. I understand that I will not have to pay additional costs or fees for the assistance animal but will be responsible for any damage caused. I request that my medical professional provide verification of the required information to my housing provider to assist in making this determination.

Applicant's Name _____

Premises Address _____

Dated _____

Signature of Applicant

Animal Identification Form

Type of animal _____ Breed _____

Age _____ Approximate Weight _____ Color _____

Describe any special training or certifications _____

Has the animal ever been reported to authorities (police, animal control) for any incident or for any reason? _____. If yes, please provide details.

Animals may not be in the common areas of the community unless on a leash or an approved device based upon the animal's certification.

Animals may be restricted from specific areas.

The animal's owners are responsible for cleaning up after the animal and for any damage done by the animal.

Animals may not disturb the peaceful and quiet enjoyment of the other tenants.

The Community may have other regulations and rules relating to animals.

I affirm that the animal is in compliance with all state and local laws concerning animals.

I have read the rules and regulations concerning animals (both above and those policies of the community), and agree to their terms.

Resident's signature

Dated

Please provide a photo of the animal.

Medical Request for Assistance Animal

Name of Person making Request _____

A request has been made to allow an assistance animal to reside with the above named individual. Such request has been made pursuant to the Fair Housing Act. In order to qualify for an assistance animal exemption to the normal rules of the community, the person making the request **must qualify as handicapped as defined**, which is:

"Handicap" means, with respect to a person –

- (1) a physical or mental impairment which substantially limits one or more of such person's major life activities,*
- (2) a record of having such an impairment, or*
- (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.*

Additionally, the assistance animal must assist the person in dealing with the disability.

Much like a prescription, this request is made because of the professional's opinion that the assistance animal may be necessary to afford the disabled person an equal opportunity to use and enjoy the leased premises. With this request and upon approval, the management of the premises must allow the animal on the premises and is prohibited from charging pet rent or other fees normally charged to persons with pets. Assistance animals are not pets but animals that are determined by competent professionals to be an important and necessary part of treatment or assistance of a disability/handicap.

Professional's Name: _____ Telephone number: _____

I certify that I have sufficient information and have consulted with the Patient in order to make a diagnosis. I certify that the above named person is handicapped as defined above and that the animal described below is, in my professional opinion, necessary to afford an equal opportunity to use and enjoy the leased premises.

Prescribed Animal's Description _____

Expiration Date of this Certification _____

Date

Signature of Medical Provider,
Health or Social Service Professional

How to avoid Horror Stories

- DOCUMENT EVERYTHING!
- IMAGINE YOU ARE BEING RECORDED
- MINIMIZE TEXTS and EMAILS
- Standardized Process!
- Use Standard Forms and Criteria
- First Qualified Applicant!

Inadvertent ESA Denials

- Refusing to approve an applicant until the ESA is approved – REMEMBER – the application to rent is separate from the accommodation request so treat them separate. For instance you could “approve” the applicant before the ESA is approved.
- Don’t say “we are waiting to see if your ESA is approved before we can approve your application.
- Instead, say “your application is approved. Would you like to sign a lease?” They are approved without the animal and lease is without an animal. If they want the animal, they have to finish the “ESA approval process”

First Qualified Occupant



Roommates – Student Housing

One Contract
preferable
If student
housing be
careful not to
take side or
allow
discrimination





What
NOT
To Do!!

How to avoid Horror Stories

Race/Color

- 1 – Treat everyone the same
- 2 – Be aware of how tenants treat each other

How to avoid Horror Stories

Sex/Gender

- 1 – Be “gender blind”
- 2 – Don’t regulate where people sleep
- 3 – Careful about custody issues
- 4 – Steering
- 5 - Reasonable and “Realistic”

Occupancy Criteria

Occupancy Standards

2 + one rule

MAXIMUM OCCUPANCY: 2 occupants per bedroom plus an additional occupant for each Apartment Home. I.e. 3 in a one bedroom/studio, 5 in a two bedroom, 7 in a three bedroom, etc.

How to avoid Horror Stories

Religion

Avoid Discussing or providing infor

Avoid Roommate Issues

How to avoid Horror Stories

National Origin

No Language bans

Only ask about immigration issues at application

Avoid speculation or hearsay

How to avoid Horror Stories

Disability/Reasonable Modifications

- 1 – Don't be punitive in definition of "return to original condition"
- 2 – Be pragmatic and strategic about upgrades

How to avoid Horror Stories

Disability/Reasonable Accommodations

1. “Interactive Process” – try to find agreement
2. Banning Pets creates ESAs!
3. Close enough is good enough
4. Don’t be mean or petty

Consider Allowing Pets with Fees

1 – 25% of providers allow animals, 75% of renters have one

2 – Pet bans push tenants to break rules or use ESA laws

3 – Many renters will gladly pay fees (if you will have animals anyway might as well get fees)

Utah has Source of Income as a Protected Class

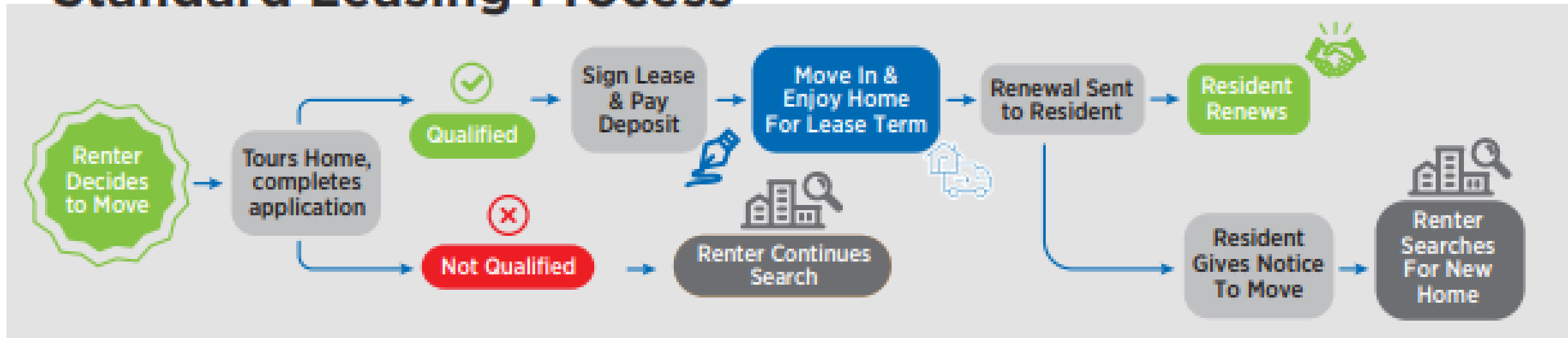
- This primarily means that you cannot deny a household who are on a section 8 (housing choice voucher) if they meet all of your criteria besides income
- Other situations where source of income protections might apply:

In Utah, as many as
1/3 of voucher
recipients cannot find
a place within 90 days
and risk losing their
voucher!

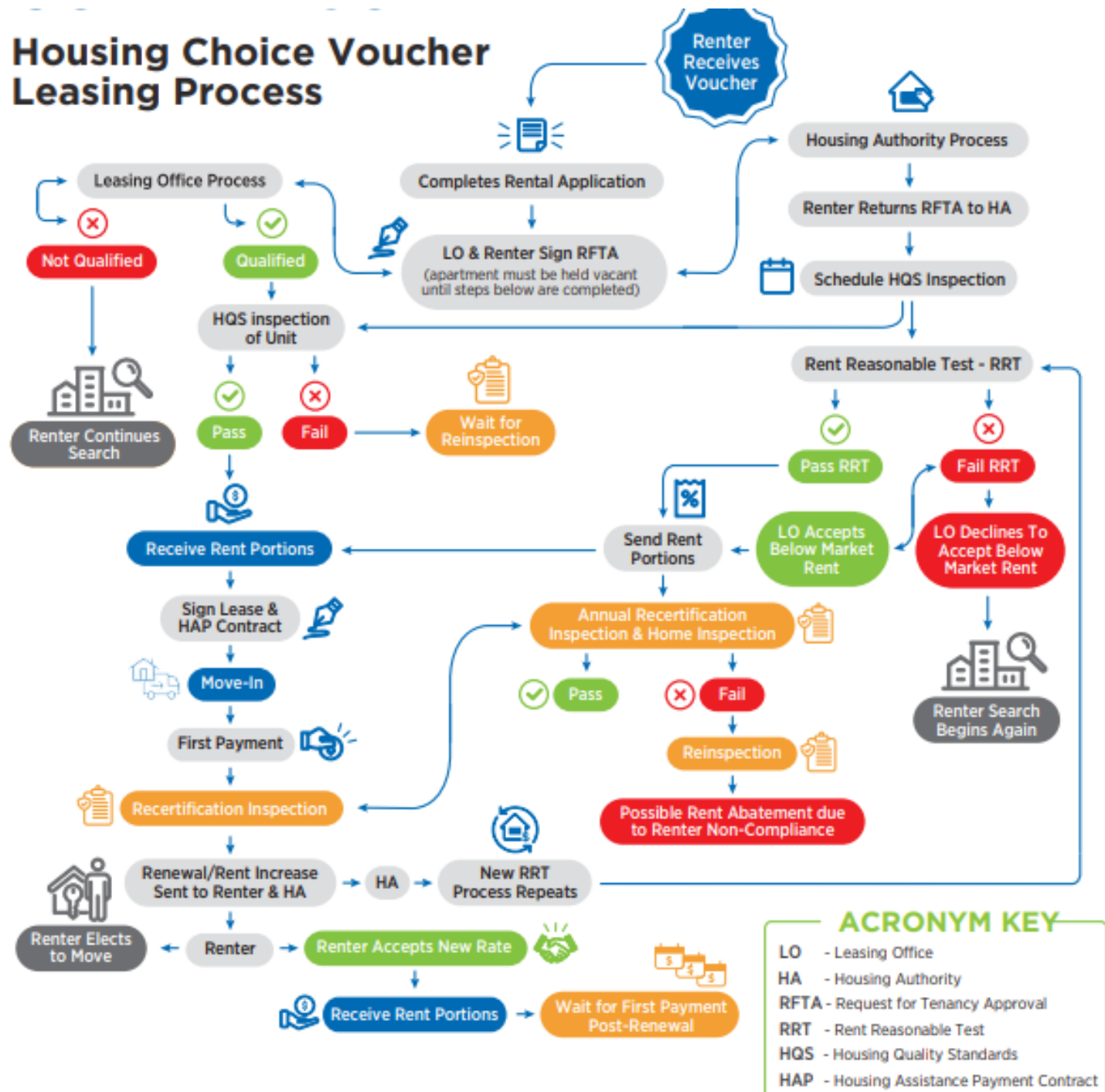


In what way is the section 8 process different from the Standard Leasing Process?

Standard Leasing Process



Housing Choice Voucher Leasing Process



Recent Court Case about a Housing
Authority/Section 8 Fail that cost a Landlord 2
months rent.

Is not counting a section 8 applicant as “in line” before the inspection a Chill and Discriminatory?

We think probably Yes!

Possible Chills

Action - Saying to a section 8 voucher holder: “The process for approving a section 8 applicant takes a lot of time and a lot of work and almost never gets approved. Are you sure you want to apply?”

Policy – We don’t consider an applicant on section 8 “in-line” until there has been an inspection and final approval of the voucher

Goal – Design a Process that helps get more families housed and simplifies the process for operators (integrates into their system)

Suggested policy:

Operators

- 1 – A section 8 applicant is treated the exact same as every applicant, and is considered “in line” when they submit an application
- 2 – Applicant is compared against the operator’s rental standards and if they qualify, they are offered a lease
- 3 – Tenant chooses *whether or not to sign lease, or let the next person in time have the unit
- 4 – If the situation ends with the tenant owing money, the deposit is returned and a claim is made to the state HCV Guarantee Fund

How does the HCV Guarantee Fund Work?

<https://jobs.utah.gov/housing/affordable/section8/>

Section 8 Landlord Incentive Program

- A new round of funding for this program will be available July 1, 2023. To receive notification when funding opens, please sign up [here](#). For questions, please contact Kathryn Halterman or 435-421-2675.

The Section 8 Landlord Incentive Program provides financial assistance to landlords to mitigate damages caused by tenants under the HUD Housing Choice Voucher Program, commonly known as Section 8. The goal of the program is to reduce financial risk for landlords to encourage them to open more rental units to Section 8 tenants. The program is administered by the Department of Workforce Services Housing and Community Development Division.

- [Section 8 Flyer](#)
- [Small Claims Courts in Utah](#) - Locate a small claims court near you to file your judgment.

Policy - Continued

Suggested policy:

Housing Authorities

- 1 – Have all the approvals done except the inspection before giving out initial paperwork
- 2 – Quick inspections
- 3 – Respond quickly
- 4 – Counsel renters to sign leases (especially since the state will cover it if there are damages up to \$5,000)

Policy - Continued

Suggested policy:

Voucher Holders

- 1 – Make sure if you have background issues that would disqualify you that you either don't apply where you know you will be denied, or you negotiate risk mitigation (like extra deposits or co-signers) with the owner/manager
- 2 – Have all ducks in a row including proof of income so verification goes quickly
- 3 – Within the operator's timeframe (24-48 hours) *sign the lease
- 4 – If the unit is ultimately not approved, **cooperate with the operator in getting resolution from the HCV Guarantee Fund

*Note: This involves some risk

**Note: There will be a judgement on your record so make sure the operator provides you a satisfaction of judgement letter so future landlords don't hold that against you

Policy - Continued

Questions and Answers:

Sexual Orientation and Gender Identity