Notice: Information presented in the course should not be used as a substitute for competent legal advice.

Fair Housing

Study Reference

Barnes Real Estate School
Fair Housing
3-hour Course Outline

Unit 1 – Fair Housing Background and Overview

• Introduction and Objectives
• Historical Overview
• Federally-Defined Protected Classes
• Fair Housing - Related Laws
  o Title VI of the Civil Rights Act of 1964
  o Title VIII of the Civil Rights Act of 1968
  o Section 504 of the Rehabilitation Act of 1973
  o Section 109 of Title I of the Housing and Community Development Act of 1974
  o Title II of the Americans with Disabilities Act of 1990
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• The Office of Fair Housing and Equal Opportunity (FHEO)
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Fair Housing – Unit 1
Screen 1 – Introduction and Objectives

Housing discrimination is characterized by an individual or family being treated unequally when trying to buy, rent, lease, sell, or finance a home based on certain characteristics, such as race, class, sex, religion, national origin, and familial status. Housing discrimination is not always blatant or obvious. Unsuspecting renters or home buyers may be politely turned away from the housing of their choice, even though they are qualified. The U.S. Department of Housing and Urban Development (HUD) estimates that more than two million instances of housing discrimination occur each year, but less than one percent are reported.

As real estate professionals, it is imperative that you know all you can know about Fair Housing laws. In this course, we will examine the history of Fair Housing Laws, the practices that are considered discriminatory, and what agents can do to avoid violations of the Fair Housing Laws.

In this unit, we will examine the Fair Housing Act which is the major federal fair housing law. We will discuss fair housing-related laws, fair housing-related presidential orders, equal opportunity housing, federally-defined protected classes, and exempt housing. We will also look at a historical overview and case studies related to these laws and presidential orders.

At the end of this unit you will be able to:

- Discuss the history of fair housing, the federally-defined protected classes, and Title VI and Title VIII of the Civil Rights Act.
- Explain other fair housing laws and the presidential orders related to fair housing.
- Discuss the practices that impact equal opportunity housing and exempt housing.
Fair Housing – Unit 1
Screen 2 – Historical Overview

The issue of civil rights has been evolving in the United States since the 1800s and along with it, issues regarding housing. Before we talk about the Fair Housing Act itself, let’s take a look at the evolution of civil rights over the years.

The Civil Rights Act of 1866 was passed into law on April 9, 1866. It was the first United States federal law to define U.S. citizenship and ensure that all U.S. citizens were equally protected by law. This legislation was originally enacted in 1865 by Congress but was vetoed. In April 1866 Congress passed the bill again.

In 1892 the U.S. Supreme Court refused to impose a restrictive covenant in housing against individuals of Chinese descent. It was the case of Gandolfo v. Hartman. The court’s legal basis was found in the 14th Amendment.

In 1908 representatives of local boards established the National Association of Real Estate Boards (NAREB). In order to hold licensees to a higher standard of professionalism, NAREB established the Code of Ethics in 1913 which was modified in 1934 to incorporate racial exclusion.

The 1917 U.S. Supreme Court case of Buchanan v. Warley addressed civil government instituted racial segregation for individuals living in residential areas. The court determined that the 14th Amendment had been violated. A Louisville, Kentucky city ordinance prohibited the sale of real property to black individuals which was in violation of the 14th Amendment that protects freedom of contract. The ruling of the Kentucky Court of Appeals was reversed. It was determined that the motive for the Louisville Ordinance, race, was an inadequate reason to make the prohibition constitutional.
In 1922, the fight to demolish segregation and discrimination in housing began when the NAACP worked on the case of Corrigan v. Buckley. In this case there were thirty white people who owned twenty five parcels of land and they agreed that no part of any of these properties would be leased or sold to any individuals of African American descent. Irene Corrigan sold a property to Helen and Dr. Arthur Curtis in 1921, who were both African American. John J. Buckley filed suit against Curtis and Corrigan to prevent the attempted sale. The case made it to the Supreme Court and it was argued that the case violated Constitutional rights, including the 14th Amendment. In 1926 the Supreme Court dismissed the case which validated the use of racially-restrictive covenants. It took decades before racially-restrictive covenants would be declared unconstitutional.

The Housing Act of 1937 was enacted on September 1, 1937. It provided for subsidies to be paid from the U.S. government to local public housing agencies. It was meant to improve living conditions for low-income families. This Act created the United States Housing Authority and was an addition to the National Housing Act of 1934.

The case of Hansberry v. Lee (1940) dealt with racially-restrictive covenants that banned African Americans from leasing or purchasing land in a Chicago neighborhood. The case argued that Hansberry, an African American, could not contest the covenant against Lee and other landowners because it had already been considered valid by the courts in a prior lawsuit. The U.S. Supreme Court decided that the covenant could be contested in court again even though some of the individuals may have been included in the prior class of neighborhood landowner.
Stuyvesant Town – Peter Cooper Village is a large, private residential development located in Manhattan. It is known as “Stuy Town” because it was named for Peter Stuyvesant whose farm occupied this site in the 17th century. Peter Cooper Village is named after Peter Cooper, a 19th century industrialist, philanthropist, and inventor who founded Cooper Union. The complex, which opened its first building in 1947, was once the Gas House district of gas storage tanks. The complex became infamous as lawsuits were filed because the project was public or semi-public, which violated anti-discrimination laws for New York public housing. In 1947 the New York Supreme Court decided that the development was private and that the company could discriminate as there were no laws to the contrary.

In 1945, an African American family named Shelley bought a home in St. Louis MO. At the time of purchase there was a restrictive covenant in place that banned minorities from occupying the property. A man named Louis Kraemer, who lived several blocks away, filed a lawsuit to prevent the Shelley family from occupying the property. In 1948 in the case of Shelly v. Kraemer, the Supreme Court of Missouri deemed the covenant as enforceable against the purchasers because the covenant was a private agreement between the original parties. It ran in favor of an estate rather than an individual so it could be enforced against third parties.

Another landmark case for the advancement of civil rights was Hurd v. Hodge. This case also had restrictive covenants forbidding African Americans from purchasing homes in particular areas. In 1948, the Supreme Court decided that these covenants and restrictions were unconstitutional.
Brown v. Board of Education was passed in 1954 declaring that state laws enforcing separate public schools for black and white students were unconstitutional. This ruling was a major victory for the civil rights movement.

The Civil Rights Act of 1964 outlawed discrimination on the basis of race, color, religion, sex, or national origin. It stopped the inequality in voter registration requirements and racial segregation in schools, the workplace, and public accommodations.

In 1966 Gautreaux v. Chicago Housing Authority alleged that the Housing Authority practiced racial discrimination in public housing. The court ordered the Housing Authority to provide scattered-site housing for residents of public housing who resided in isolated public housing projects in poverty-stricken areas.

In response to the assassination of Dr. Martin Luther King Jr., the Fair Housing Act was passed in 1968. This Act (Title VIII of the Civil Rights Act) forbids discrimination in housing on the basis of color, race, religion, national origin, sex, familial status, or disabilities by housing providers. These include real estate companies, landlords, lending institutions, insurance companies, and other entities.

The case of James v. Valtierra in 1971 supported a state constitutional provision that required approval of the development of low-rent housing projects by referendum. It was found that a vote to approve low-income housing did not violate equal protection or the 14th Amendment.
A huge victory for fair housing was determined by the U.S. Supreme Court in the case of Trafficante v. Metropolitan Life Insurance in 1972. It enabled tenants to sue their landlords for discriminatory rental practices.

In 1974 two major laws were passed that changed fair housing in the United States. The Housing and Community Development Act formed a system of “community block grants” that provided federal funding for certain projects to neighborhoods and communities. Then, the Equal Opportunity Act was passed. It forbids creditors from discriminating on the basis of sex, race, marital status, religion, color, age, or national origin.

In 1976 the U.S. Supreme Court ruled that HUD should work to remedy past discrimination practices throughout the Chicago metropolitan area. In the case of Hills v. Gautreaux, several Chicago families residing in housing projects were given Section 8 vouchers as compensation for substandard housing conditions which allowed them to move to the suburbs.

In 1977 Patricia Roberts Harris became the first African-American woman to hold a cabinet position when President Jimmy Carter appointed her Secretary of the Department of Housing and Urban Development. She was a graduate of Howard University and was previously a dean at the Howard University School of Law.
One of the most important cases in fair housing history was **Havens Realty v. Coleman** in 1982. It provided a legal basis for “testing” in the enforcement of fair housing and determined that testers can sue under the Fair Housing Act. “Testing” refers to the use of individuals who, without any bona fide intent to rent or purchase a home, apartment, or other dwelling, pose as prospective buyers or renters of real estate for the purpose of gathering information. This information may indicate whether a housing provider is complying with fair housing laws.

The **Fair Housing Act of 1988** was developed to correct inadequacies of the original Act. Many problems needed to be corrected such as amendments for individuals with disabilities and familial status as protected classes. These amendments gave HUD more power.

In 1993 Henry Cisneros was appointed Secretary of HUD by President Clinton. Cisneros initiated the revitalization of public housing developments. He also developed policies that enabled the nation’s highest rate of home ownership.

Another important U.S. Supreme Court ruling was **Meyer v. Holley** in 2003. This case established that a broker is liable for violations of the Fair Housing Act based on the actions of his or her sales people.

The Fair Housing Legal Clinic at the Howard University School of Law was established in 2004 through a grant from HUD. Howard University is a historically black university and this was the first clinic of its kind in the nation.

National Homeownership Month was recognized by President Bush in 2006. Homeownership is an important aspect in fair housing because it embraces many different characteristics covered by fair housing such as brokerage services, advertising and lending.
Fair Housing – Unit 1

Screen 8 – Federally-Defined Protected Classes

According to anti-discrimination law, a protected class is a characteristic of a person which cannot be targeted for discrimination. The list below shows the characteristics that are deemed “protected classes” by federal law, along with the legislation that made them so:

- Color – Civil Rights Act of 1964
- Race – Civil Rights Act of 1964
- National origin – Civil Rights Act of 1964
- Religion – Civil Rights Act of 1964
- Sex – Civil Rights Act of 1964 and Equal Pay Act of 1964
- Age – Age Discrimination in Employment Act of 1967
- Familial status – Title VIII of the Civil Rights Act of 1968
- Citizenship – Immigration Reform and Control Act of 1968
- Pregnancy – Pregnancy Discrimination Act of 1978
- Genetic information – Genetic Information Nondiscrimination Act of 2008
Some of the lesser known laws from the list on the previous screen include the following:

- **The Immigration Reform and Control Act of 1968** forbids discrimination against an applicant or an employee because he or she is not a United States Citizen.

- **The Pregnancy Discrimination Act of 1978** forbids discrimination on the basis of pregnancy. It was an amendment to Title VII of the Civil Rights Act of 1964.

- **The Uniformed Services Employment and Reemployment Rights Act of 1994** protects civilian job rights and benefits for veterans, members of reserve components, and even those individuals activated by the President of the United States to provide federal response for national emergencies.

- **The Genetic Information Non-Discrimination Act of 2008** forbids an employer to consider an individual’s genetic information. A person cannot be discriminated against because he or she may be prone to a certain illness or the fact that a person will certainly develop an illness.

We'll discuss the other laws that created the protected classes in more detail on the following screens.
The Civil Rights Act of 1964 was signed into law by President Lyndon B. Johnson on July 2, 1964. It prohibits discrimination on the basis of color, race, or national origin for programs that receive federal financial assistance. In essence, public funds cannot be spent to encourage or result in racial discrimination.

Agencies that receive federal funding, such as Medicaid or other human services, cannot deny access to a person because of color, race, or national origin. Some of the programs that may receive federal assistance and would be covered by Title VI are:

- Medicaid and Medicare agencies
- Hospitals
- Drug and alcohol treatment centers
- Public assistance programs
- Extended care facilities
- Nursing homes
- Public assistance programs
- Daycare, mental health and senior citizen centers
- Adoption agencies

Title VI makes it clear that a recipient of federal financial assistance may not, based on race, color, or national origin:

- Provide a different service or provide the services in a different manner from those provided to others.
- Deny benefits, financial aid, or other services as a part of health or human services programs.
- Fail to take steps to ensure people with limited English proficiency can receive programs or activities.
- Separately treat or segregate individuals in any matter related to the receipt of any service, benefit, or financial aid.
English is not the primary language for many people living in the United States. These individuals are described as Limited English Proficient or “LEP.” Many LEP individuals do not receive federal assistance. Title VI protects the rights of those who do receive assistance from federally-funded programs.

Title VI of the Civil Rights Act of 1964 is of great importance to the LEP population. These individuals can have a more difficult time accessing benefits, understanding rights or other federally-funded information due to the language barrier. Title VI would not allow discrimination to the LEP population that receives federal funding.

Failure to ensure that LEP individuals can benefit from federally-assisted programs may violate the prohibition under the Title VI of the Civil Rights Act of 1964. Recipients of federally-funded programs must take steps to make sure the LEP population has access to programs and services in order to avoid discrimination.

Title VI applies to all federal financial assistance which includes awards and loans of federal funds, donations of federal property, or any arrangement or contract that provides assistance for its purpose.

If a recipient of federal assistance is found guilty of discrimination, the funds will be terminated by the federal agency providing assistance or legal action may be taken by the Department of Justice.
Title VIII of the Civil Rights Act of 1968 forbids discrimination in the sale, rental, and financing of homes based on race, color, religion, sex, or national origin. Title VIII is also known as the Fair Housing Act. People with disabilities and families with children became covered by Title VIII in 1988 under the Fair Housing Amendment Act. In 1974 gender was added.

Title VIII was meant as a follow-up to the Civil Rights Act of 1964. It was passed shortly after the assassination of civil rights leader Dr. Martin Luther King Jr. This Act is remembered as one of the greatest achievements for civil rights legislation.

During the late 1960’s housing patterns were still based on race. Those who challenged this were often met with hostility or violence. Many minorities still had trouble renting or purchasing homes in certain residential areas. This became a struggle for fair housing.

The day of the Senate vote, Martin Luther King Jr. was assassinated in Memphis, Tennessee. President Lyndon B. Johnson pressured Congress to pass this new legislation. He thought it would serve as a testament to Martin Luther King Jr. and wanted it passed before King’s funeral. The Fair Housing Act was passed on April 10th and President Johnson signed it into law the following day.
Section 504 of the Rehabilitation Act of 1973 is legislation that provides rights to people with disabilities. It prohibits discrimination based on disabilities in any program that receives federal financial assistance. It took effect in May 1977 and was the first U.S. federal civil rights protection for people with disabilities.

Airports were among the first American facilities to become fully accessible to people with disabilities. Federal funds became possible to airports all over the country. Colleges and universities were able to receive federal funding usually in the form of grants, cooperative agreements, and financial assistance for students. Shortly after the implementation of 504, public libraries in many communities received federal financial assistance.

The law also pertains to education. It prohibits the denial of a public education because of a child’s disability. This includes local educational agencies, vocational education or other school systems. The Individuals with Disabilities Education Act (IDEA) protected only a subset of children with disabilities. Most are protected under Section 504. It also provides rights to students outside of the school including extracurricular activities, after school care, and sports.

Violations of Section 504 can be addressed with the local education agency or the Office for Civil Rights (OCR) of the U.S. Department of Education. If Section 504 is found to have been violated, it can result in a loss of federal funding. Individuals may also have a private right of action.
Section 109 of Title I of the Housing and Community Development Act of 1974 forbids discrimination on the grounds of race, color, national origin, disability, sex, or religion in programs and activities receiving federal financial assistance. HUD has an obligation under 109 to ensure that individuals are not subject to discrimination on the basis of race, color, national origin, disability, age, religion, or sex by recipients of Community Development Block Grant (CDBG) funds. Section 109 has HUD enforce the rights of individuals to live in CDBG-funded housing free from such discrimination. This applies only to CDBG and allied programs, such as Section 108 Loan Guarantees and the Historically Black Colleges and Universities Program.

An individual who feels that he or she has been a victim of housing discrimination on the basis of race, color, national origin, disability, religion, or sex in a CDBG-funded project can file a complaint with HUD under Section 109 which investigates complaints of discrimination. Individuals can send complaints to HUD’s Fair Housing Enforcement Center or Program Operations and Compliance Centers or to the HUD Office of Fair Housing and Equal Opportunity.

If it is determined that a recipient of federal financial assistance has failed to comply with Section 109, the Secretary will notify the Governor of the State or the Chief Executive Officer of the unit of general local government of the noncompliance issues and will request that the Governor or the Chief Executive Officer secure compliance.
Title II of the Americans with Disabilities Act was written by Senator Tom Harkin, who was its chief sponsor in the Senate and it was enacted by the U.S. Congress in 1990. Harkin delivered part of his speech in sign language so that his deaf brother could understand. It was signed into law by President George H. W. Bush on July 26, 1990. It was later amended with changes that took effect January 1, 2009.

The Americans with Disabilities Act (ADA) prohibits discrimination based on a disability. It gives similar protection against discrimination to Americans with disabilities as the Civil Rights Act of 1964. The ADA requires covered employers to ensure reasonable accommodations to employees with disabilities and imposes accessibility requirements on public accommodations.

Mental and physical medical conditions are included in the Americans with Disabilities Act and it does not need to be a severe or permanent condition to be considered a disability.

Title II prohibits discrimination based on disabilities by all public entities at the local and state level. All public entities are required to comply with Title II regulations by the U.S. Department of Justice.

Title II applies to public transportation that is provided by public entities through the U.S. Department of Transportation regulations. It includes all commuter authorities along with the National Railroad Passenger Corporation. It also applies to state and local public housing, housing referrals, and housing assistance. The Office of Fair Housing and Equal Opportunity enforces this provision.
The Architectural Barriers Act of 1968 (ABA) requires facilities built, designed, transformed, or leased with funds supplied by the United States Federal government be accessible to the public. The ABA was one of the first efforts to make sure some federally-funded buildings and facilities are constructed to be accessible to people with disabilities. If a facility was built before this law it is generally not covered, but leases or alterations handled after the law took effect can trigger coverage.

Construction and alterations of buildings need to ensure that physically-handicapped persons will have ready access to and use of them. These Uniform Federal Accessibility Standards (UFAS) are maintained and developed by an Access Board and perform as the base for the standards used to enforce the law. The Access Board investigates complaints concerning particular facilities. The Department of Defense, the Department of Housing and Urban Development, the General Services Administration, and the U.S. Postal Service are responsible for setting the standards. These federal agencies must make sure there is compliance with UFAS when funding the construction, design, transformation, or leasing of facilities. Some departments also require compliance with the Americans Disabilities Act accessibility guidelines.

Buildings designed, constructed, or altered after August 12, 1968 are covered under the Act.
The **Age Discrimination Act of 1975** is a law which forbids discrimination, based on age, in activities or programs that receive federal financial assistance, such as financial assistance to schools and colleges provided by the U.S. Department of Education. The Act applies to all ages and permits the use of some age distinctions and factors other than age that meet the Act’s demands. It does not forbid discrimination when a reasonable action takes into account age as a factor necessary to the normal operation or achievement of any statutory objective of programs or activities if based on reasonable factors other than age. The Civil Rights Center enforces the Discrimination Act.

The **Age Discrimination in Employment Act of 1967** protects employees and those applying for employment who are 40 years of age and older from discrimination on the basis of age in hiring, discharge, promotion, compensation, terms, conditions, and privileges of employment.

**Section 188 of the Workforce Investment Act of 1998** (WIA) forbids discrimination against employees, applicants, and participants in WIA Title I financially-assisted activities and programs on the basis of age. WIA also forbids discrimination on the basis of race, color, sex, religion, disability, national origin, political affiliation, or belief. The Civil Rights Center enforces Section 188 of WIA.
Title IX is part of the United States Education Amendments of 1972. It states that no person living in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any education activity or program that receives federal financial assistance on the basis of sex. The main objective of Title IX is to avoid the use of federal money that would support sex discrimination in education. It provides individuals with protection against those practices. Title IX applies to most aspects of federally-funded education programs. It applies to any education or training program operated by a recipient of federal financial assistance as well as colleges, universities, and elementary and secondary schools.

The Office for Civil Rights (OCR) strictly enforces Title IX to ensure that institutions comply with the law when receiving federal financial assistance. OCR investigates and resolves complaints that allege sex discrimination. OCR also provides information and guidance to universities, schools, and other agencies to help them make sure they are in compliance with the law.

Title IX also protects individuals from discrimination based on sex in employment and employment practices in educational programs that receive federal funding. This includes advertising, recruitment, tenure, hiring, upgrading, rate pay, firing, fringe benefits, maternity leave, and participation in employer-sponsored activities.
Executive Order 11063 forbids discrimination in the sale, rental, leasing, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds. This Executive Order was signed into law by President John F. Kennedy on **November 20, 1962**.

President Kennedy argued that it was unfair to exclude individuals based on race, color, creed, or national origin. He stated that the executive branch of the federal government should ensure that laws were fairly administered. Kennedy directed the Department of Housing and Urban Development along with other executive agencies to help eliminate discrimination through litigation and other means. He created a President’s Committee on Equal Opportunity Housing entrusted with the enforcement.

The portions of the Order that described and established the powers of the Committee were amended in 1980 under Executive Order 12259 which placed authority under the direction of the Secretary of Housing and Urban Development. In 1994 it was amended again through Executive Order 12892.

The Civil Rights Act of 1968 was passed six years later which included fair housing legislation and greatly expanded on previous legislation. This was an important step in eliminating discrimination in the housing market. Later other issues such as affordability and accessibility were addressed in housing policy.
Executive Order 11246 was signed on September 24, 1965 by President Lyndon B. Johnson. It established requirements against discrimination practices in employment and hiring on the part of U. S. government contractors. It forbids federal contractors and federally-assisted construction contractors and subcontractors, who exceed $10,000 in government business in one year, from discriminating on the basis of color, race, sex, religion, or national origin in employment decisions. It requires contractors to use affirmative action to make sure that applicants are employed and employees are free from discrimination regarding color, race, religion, sex, or national origin.

The Executive Order also requires contractors with contracts of $50,000 or more and with 51 or more employees to implement affirmative action to increase minorities and women in the workplace. If it is demonstrated that minorities and women are under-represented in the workplace, federal action can be taken. Affirmative action plans must include an equal opportunity policy statement, identification of under-represented areas, an analysis of the work force, the establishment of rational and flexible goals, and timelines for increased employment opportunities, specific programs to address problems, support for community action events, and the establishment of a reporting and internal audit system.

The Department of Labor was assigned the responsibility to enforce non-discrimination in contracts with private industry. In 1969 detailed regulations for compliance were issued when the Nixon administration included affirmative action as part of its civil rights strategy.
Executive Order 12892 was signed by President Clinton on **January 11, 1994** and as amended, demands federal agencies to further fair housing in their activities and programs. HUD is responsible for coordinating the effort. This includes activities and programs administered, operated, or undertaken by the federal government.

The Order also established the President’s Fair Housing Council. This Council is chaired by the Secretary of HUD and is required to review the plans and delivery of federal programs and activities to ensure they support a strategy to further fair housing in an affirmative manner. The Fair Housing Council includes every other cabinet agency whose work may affect housing.

Executive Order 12892 recognizes that access to new housing opportunities may be restricted by other government policies and systems that have adapted to established patterns of metropolitan segregation. An example of this would be the need for transportation systems, designed in the 1970s to transport workers to the city, to be modernized to support new commuting and residential patterns. Another example would be the potential need for the distribution of community health facilities and management of government-assisted health insurance to be changed or updated to support residential mobility. The President’s Fair Housing Council encourages a federal fair housing review for vital programs in all federal agencies so that these programs support fair housing.
Executive Order 12898 was issued by President Clinton on **February 11, 1994**. Its motive is to focus federal attention on the environmental and human health effects of federal actions on low-income and minority populations with the purpose of achieving environmental protection for all communities.

The Executive Order instructs federal agencies to identify and address the unjustifiably high and adverse human health or environmental effects of their actions on low-income and minority populations to the greatest extent permitted by law. It also directs each agency to plan a strategy for implementing environmental justice and equality. It promotes non-discrimination in federal programs that affect the environment and human health. It provides access to public information to minority and low-income communities.

Everyone deserves the chance to learn, live, and work in a healthy community. Many low-income neighborhoods, diverse communities, and tribal areas have had a high rate of environmental burdens like contamination from landfills or industrial plants and air pollution from poor housing conditions. These hazards cause health problems and negatively impact a community. They can cause a high rate of school absences for children who experience complications with asthma. These hazards also impact adults who struggle to pay their medical bills. Executive Order 12898 declared that every American has a right to drink clean water, breathe freely, and live on uncontaminated land.
Executive Order 13166 was signed by U.S. President Bill Clinton on **August 11, 2000**. The purpose of the Order is to improve access to services for people with limited English proficiency. It requires federal agencies to analyze the services they provide and identify service needs to individuals with limited English proficiency (LEP), and it develops and puts into action a system to provide services that LEP individuals can access. This Order also instructs federal agencies to ensure that recipients of federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

To help federal agencies with these responsibilities, the U.S. Department of Justice issued a Policy Guidance Document, *“Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination Against Persons with Limited English Proficiency.”* This Guidance Policy established compliance standards that recipients of federal financial assistance must follow to make sure their programs and activities that are normally provided in English are accessible to LEP individuals. It ensures that these individuals are free from discrimination on the basis of national origin and are not in violation of Title VI’s prohibition against national origin discrimination.

The Federal Coordination and Compliance Section is responsible for government-wide allocation and organization with respect to Executive Order 13166. The Section began an aggressive program of consultations and it solicits comments and suggestions from funding recipients and LEP individuals on how to address LEP needs in an efficient and cost-effective manner.
Executive Order 13217 was issued on June 18, 2001 as a part of the New Freedom Initiative. The Order is also known as Community-Based Alternatives for Individuals with Disabilities. It asked the federal government to assist states and localities to ensure a commitment to community-based alternatives for people with disabilities.

The Executive Order required six federal agencies to evaluate the programs, policies, statutes, and regulations of their agencies to decide whether any should be revised or changed to improve the availability of community-based services for individuals with disabilities and to inform the President of their findings. The federal agencies included the Department of Justice, Health and Human Services, Education, Labor, HUD and the Social Security Administration. Other departments that were not named in the Executive Order joined to further the cause. These were the Department of Transportation and Veteran Affairs, the Small Business Administration and the Office of Personnel Management. Under the Leadership of HHS Secretary Tommy G. Thompson, these agencies formed the Interagency Council on Community Living.

Plans to improve community integration of individuals with disabilities must include ideas from those who are most affected. The President made sure that public input would be a central component of the federal review mandated by the Executive Order. To encourage the wide participation of individuals with disabilities, their caregivers, providers and advocates, the Interagency Council on Community Living hosted a national teleconference and a Federal Register notice to solicit written comments.
The Office of Fair Housing and Equal Opportunity (FHEO) administers and enforces federal fair housing laws and creates policies to ensure all Americans have equal access to their choice of housing. The goal of FHEO is to enable all Americans the opportunity for equal housing by administering laws that forbid discrimination on the basis of color, race, religion, sex, national origin, disability, and familial status.

The Fair Housing Act of 1968, which sought to end discrimination in housing, created the Office of Fair Housing and Equal Opportunity which is responsible for enforcing fair housing laws in both privately-owned and publicly-assisted housing. FHEO provides an administrative complaint process that is available to any person experiencing housing discrimination. It also conducts investigations regarding housing-related discrimination.

The main FHEO office is in the Department of Housing and Urban Development in Washington, DC. It also has ten regional offices in various areas of the country. The regional offices conduct training, enforce fair housing laws, and monitor compliance and work with state and local agencies to manage fair housing programs. FHEO is also responsible for fair housing legislation, reviewing proposed rules, handbooks, draft reports, and notices of funding from other HUD departments. Fannie Mae and Freddie Mac, which are government-sponsored enterprises, are managed by FHEO to ensure consistency with fair housing.

There have been some processes and practices that have impacted the opportunity for fair and equal housing, including:

- Benign neglect
- Urban decay
- Highway revolts
- Housing segregation
Benign neglect was a policy proposed by Daniel Patrick Moynihan in 1969. Moynihan was an urban affairs advisor on President Nixon’s staff at the time. Benign neglect was designed to calm racial tensions after the American Civil Rights Movement in the 1960s. The policy was seen as an abandonment of certain neighborhoods, especially those with a large African American population. Moynihan made recommendations for urban policy based on the assumption that there was extensive arson in low-income neighborhoods like Harlem and the South Bronx. He thought the crime of arson would benefit from benign neglect. It would be an attitude of ignoring this undesirable behavior and leaving the people living in those neighborhoods or the individuals responsible for the arson to deal with the problem themselves.

The memo that Moynihan sent to President Nixon discussed a need for benign neglect as a benefit to ease racial issues. He believed that anti-poverty programs had failed because money had been used to resolve the nation’s inability to properly educate the African American poor but also because issues were not raised in reference to the viability of integration to solve racial problems.

Most liberals felt that Moynihan approached racial problems with a “laissez-faire” attitude, which means to do nothing. The basic concepts of benign neglect suggested that social programs, funded and endorsed by the federal government, created attitudes of dependency among the low-income African American population.
Urban decay describes the condition of a previously-functioning city or part of a city falling into disrepair. It might have a change in population, depopulation, abandoned buildings, high unemployment rates, crime, fragmented families, and a desolate landscape.

Urban decay areas are generally located at the outskirts of a metropolitan city with a low-income population. One of the characteristics of urban decay is blight which is the visual, physical, and psychological effects of living among condemned housing and empty lots. These desolate areas are dangerous to a community as they attract crime and gangs.

During the Industrial Revolution people moved from the country to the city for employment in manufacturing, which caused a significant rise in the urban population. Changes in economic conditions left many of these cities vulnerable. They became resistant to improvement and suffered from high unemployment, poverty, and a deteriorating physical environment.

Changes in transportation, such as private automobiles, eliminated many public transportation service advantages. At the end of World War II, many political decisions encouraged suburban development by using increased city taxes to build new support for racially-restricted suburban areas. When industries relocated outside of cities, those areas experienced a loss in population associated with urban decay.

The United States had early government policies which included urban renewal and building housing projects for the poor. Urban renewal destroyed entire neighborhoods in many cities and eventually was considered a cause of urban decay rather than a solution.
Fair Housing – Unit 1  
Screen 28 – Highway Revolts

Many highway revolts occurred during the 1960s and 1970s in developed countries. These revolts were in response to plans for new highway construction. Many of these plans were abandoned or scaled back due to public opposition. There were groups of people that revolted because their neighborhoods would be disrupted by the proposal of new highways.

In many cities there is still evidence of major projects that were never completed. There are unused highways and short stretches of highway in the middle of nowhere. In some cases these revolts led to the removal or relocation of highways that had previously been built.

After World War II, there was a major drive to construct a highway network in the United States, including an interstate system. In the 1950s the design and construction of these highways began and many areas would suffer from this. Some of the proposed highway routes were designed without considering local concerns.

In 1956 many neighborhood activists in San Francisco became aware of highway construction and the effect it would have on local neighborhoods. There were several individuals and groups who opposed the new highway routes which led to the modification or cancellation of some of these highways. In the 1970s the highway revolts continued which were enhanced by the energy crisis and the high price of fuel.
Housing segregation is the practice of denying minority groups equal access to housing through the denial of realty and financing services, misinformation, and racial steering. The United States housing policy has influenced the history of housing segregation trends. Housing segregation was sustained due to factors like socioeconomic status, immigration, and spatial assimilation. The consequences of housing segregation included relocation, poverty, and unequal living standards. Legislation was implemented such as the National Housing Act of 1934, the GI Bill, and the Fair Housing Act to help people obtain fair housing. There have also been initiatives to battle housing segregation like the Section 8 housing program.

In 1934 the practice of mortgage discrimination, also known as redlining, came into existence through the National Housing Act of 1934. It began when the federal government and the Federal Housing Administration permitted the Home Owners’ Loan Corporation to create maps that outlined the security level for real estate investments in the United States. These maps outlined high-risk areas in red. Some low-income and minority neighborhoods were redlined and banks would deny mortgages to people living within them. Many of these neighborhoods fell into disrepair and decay because of the lack of loans for making repairs. There was also a shortage of loans for individuals who wanted to buy a home in these areas, so it was difficult to attract and keep families. This added to the decline of many cities in the 20th century.
The Housing Act of 1937 created approximately 160,000 units of public housing. Most of these were built for the poor and working class who were suffering from the Great Depression. This housing program also authorized the Federal Housing Authority to provide funds to local housing authorities to help with the building and development of these units. This Act actually created more racial segregation in housing because minorities made up the majority of the poor population.

The GI Bill furthered segregation after World War II by excluding African Americans from European neighborhoods. Real estate agents would not show homes to African Americans in the European American neighborhoods or they would try to talk them out of buying homes in these areas. Agents felt like they would lose future business by listing or selling properties belonging to African Americans. Therefore, most African Americans lived in concentrated areas within the city. These areas received no support due to redlining practices and the areas were generally high crime districts.

As we have discussed previously, the Fair Housing Act was passed in 1968 and it allowed any individual facing discrimination on the basis of race the ability to prosecute under Fair Housing Law. The Office of Fair Housing and Equal Opportunity was given the responsibility of administering and enforcing fair housing laws. This legislation mandated fair housing as a national policy and restricted the practice of discrimination.
In 1971 Nixon did not provide presidential support for fair housing. He acknowledged that federal law requires nondiscriminatory practices in federal fair housing but he declared that government could not force suburban desegregation or economic/racial integration. By not supporting subsidized housing programs Nixon gained many suburban votes but heightened housing inequality.

The Equal Opportunity Act of 1974 provided protection against discrimination in lending. It would not allow creditors to discriminate against applicants on the basis of race, sex, marital status, ethnicity, religion, or age.

The Home Mortgage Disclosure Act of 1975 was designed to supplement the Fair Housing Act in certain areas of housing discrimination. This Act required lending institutions to disclose federally-related mortgage loan data on an annual basis. Its goal was to prevent lending discrimination in certain areas.

The Community Reinvestment Act of 1977 stated that banks need to apply anti-discrimination guidelines to their lending criteria at all times. Discrimination still existed through less obvious techniques such as racial steering and a lack of information given to African Americans. The African American population still experiences the greatest residential segregation as compared to other minority groups although the number of integrated neighborhoods has increased since the passing of the Fair Housing Act of 1968.

The Hispanic population in the United States has grown significantly over the past decades due to immigration. Hispanics are now the largest minority group in the U.S. and they experience the second highest level of residential discrimination.

Asians are the third largest minority group in the United States. Their population has grown considerably due to immigration. A majority of Asians live in predominantly Asian suburbs rather than integrating themselves into white neighborhoods.
Fair Housing – Unit 1
Screen 32 – Exempt Housing

The Fair Housing Act does not apply to every property. Properties exempt from federal fair housing include:

- Some housing owned by religious organizations and societies. They are allowed to limit occupancy to members when selling, renting, or allowing the use of dwellings for non-commercial purposes. Non-profit religious organizations can add a surcharge to the sale or rental of a property to a person that does not belong to their religious group, as long as the membership in the group is not limited by race, color or national origin.

- The sale or rental of a single-family home that is owned by a private person, as long as the owner does not own more than three homes at one time, does not use discriminatory advertising, and does not use a real estate agent.

- Rental of a unit by an owner who lives in the building with four or fewer units.

- Private clubs. Clubs may limit occupancy to its members. They can also give preference to members when providing accommodations for non-commercial use. However, a club may not discriminate in its membership requirements.

- Senior housing may exclude families with children. An example of this would be housing designated for individuals 62 years of age or older. This includes housing that serves individuals age 55 and older if 80% of the housing is inhabited by at least one person who is 55 years of age or older.

The vast majority of apartment housing is covered by the Fair Housing Act. The law provides that individuals cannot be discriminated against in the majority of housing transactions on the basis of race, religion, gender, color, national origin, familial status, or disability.
Case Summary

The Hurd v. Hodge case related to a row of three-story townhouses that were built between 114 and 130 Bryant Street in Washington, D.C. These homes cost $3,500 each and were sold with a new deed that included a restrictive covenant “prohibiting the sale of the house to anyone of the Negro race.” The covenant also contained a $2,000 penalty if the home was sold to a Negro, but it did not specify who would pay or benefit from the fee.

The house at 116 Bryant Street was sold to a white man, Thomas P. Rooney, in 1905. Rooney accepted the restrictive covenant and lived in the home until 1942. Subsequently, the property was sold to several real estate agents over a period of several years. In those days, the covenants were designed to keep the areas all white; they did not target blacks specifically. Other covenants in Washington neighborhoods did specifically target other groups such as Jewish people, Mexicans, and Native Americans.

In 1944, 116 Bryant Street was sold to James and Mary Hurd, a black couple. The Hurds were the first black couple to own and live in a home on Bryant Street. Their white neighbors, Frederic and Lena Hodge filed a lawsuit to prevent the Hurds from purchasing and living in this home. The Hodges cited preserving their home’s value as the reason for the suit.

Ruling

As might be expected for that period, the court ruled in favor of the Hodges and ordered the Hurds and other black families that had relocated to this area out of their homes. The suit was then appealed to the Supreme Court.

On May 3, 1948 the Supreme Court unanimously decided that the enforcement of these restrictive covenants were improper and went against the Civil Rights Act of 1866. The Hurds were able to occupy their home and they lived there for 43 years. Their fight to prohibit these restrictive covenants became an inspirational message for all minorities and set a significant legal precedent for civil rights.

Click here to view the complete case.
Case Summary

Many states, including Kansas, South Carolina, Virginia, and Delaware, practiced the segregation of white and black students in the public schools. In December of 1952, thirteen Topeka parents filed a class-action suit in support of their 20 children against the Board of Education of the City of Topeka, Kansas. The suit asked the school district to reverse its racial segregation policy.

The plaintiffs in Brown v. Board of Education declared that racial separation only pretended to provide equal treatment of black and white Americans. They argued that it actually perpetuated inferior accommodations, services, and unfair treatment for black Americans. The primary plaintiff, Oliver L. Brown, was an African American parent who worked for the Santa Fe Railroad. Brown’s daughter, Linda, was a third grader who had to walk six blocks to the school bus stop to ride to her segregated school which was a mile away. There was a white school, Sumner Elementary, only seven blocks from her house. In 1951 all of the plaintiffs named in the suit attempted to enroll their children in the closest neighborhood school. They were refused enrollment and directed to the segregated schools.

Ruling

The district court ruled in favor of the Board of Education. But the case went to the Supreme Court on appeal. The court declared state laws that established separate public schools for black and white students were unconstitutional. On May 17, 1954 the Warrens court decided that separate educational facilities are not equal. It was ruled to be a violation of the Equal Protection Clause of the 14th Amendment.

Click here to view the complete case.
The Fair Housing Act is the major federal fair housing law. Title VIII of the Civil Rights Act forbids discrimination in the sale, rental and financing of homes based on color, race, national origin, sex, religion, familial status, and disability. The Fair Housing Act, as amended, forbids discrimination on the basis of disability or familial status.

Protected classes cannot be targeted for discrimination under the United States Federal Anti-Discrimination Law.

Title VI of the Civil Rights Act of 1964 forbids employers from discriminating against employees because of race or color. The Civil Rights Act of 1964 also prohibits discrimination for programs that receive federal financial assistance.

The Americans with Disabilities Act of 1990 forbids an employer from discriminating against an applicant or employee because he or she has a disability.

The Genetic Information Non-Discrimination Act forbids an employer from considering an individual's genetic information.

The Immigration Reform and Control Act of 1968 forbids discrimination on the basis of citizenship.


The Uniformed Services Employment and Reemployment Act of 1994 protects civilian job rights and benefits for veterans.

Housing segregation is the practice of denying minority groups equal access to housing through the denial of realty and financial services, misinformation and racial steering. Segregation was sustained due to factors like socioeconomic status, immigration, and spatial assimilation. Legislation was implemented such as the National Housing Act of 1934, the GI Bill, and the Fair Housing Act to help people obtain fair housing.
Section 504 of the Rehabilitation Act of 1973 is legislation that provides rights to people with disabilities.

Section 109 of the Housing and Community Development Act of 1974 forbids discrimination for federal programs that receive federal financial assistance.

The Architectural Barriers Act of 1968 requires federally-funded facilities to be accessible to people with disabilities.

The Age Discrimination Act of 1975 forbids discrimination based on age in programs that receive federal financial assistance.

Title IX of the Education Amendments Act of 1972 forbids discrimination in any federally-funded education program.

Fair Housing Presidential Orders have also aided in the fight against discrimination.

- Executive Order 11063 forbids discrimination for facilities provided with federal funds.
- Executive Order 11246 established requirements against discrimination practices in employment.
- Executive Order 12892 demanded federal agencies to affirmatively further fair housing in their activities and programs.
- Executive Order 12898 focused attention on the environmental and human health effects of federal actions on low-income and minority populations.
- Executive Order 13166 improved access to services for LEP individuals.
- Executive Order 13217 ensured a commitment to community-based alternatives for people with disabilities.
The Office of Fair Housing and Equal Opportunity administers and enforces federal fair housing laws. There have been some processes and practices that have impacted the opportunity for fair and equal housing, including:

- Benign neglect
- Urban decay
- Highway revolts
- Housing segregation

The Fair Housing Act does not apply to everyone. There are a few properties exempt from federal fair housing but the vast majority are covered by the Fair Housing Act.

Exemptions include:

- Some housing owned by religious organizations and societies. They are allowed to limit occupancy to members when selling, renting, or allowing the use of dwellings for non-commercial purposes.
- The sale or rental of a single-family home that is owned by a private person, as long as the owner does not own more than three homes at one time, does not use discriminatory advertising, and does not use a real estate agent.
- Rental of a unit by an owner who lives in the building with four or fewer units.
- Private clubs. Clubs may limit occupancy to its members. However, a club may not discriminate in its membership requirements.
- Senior housing may exclude families with children. An example of this would be housing designated for individuals 62 years of age or older. This includes housing that serves individuals age 55 and older if 80% of the housing is inhabited by at least one person who is 55 years of age or older.
Fair Housing – Unit 2
Screen 1: Introduction and Objectives

In this unit of the Fair Housing course, we will discuss a number of organizations that ensure Americans have equal access to housing. We’ll cover the types of housing discrimination and describe the process for filing a discrimination complaint. We’ll also look at a couple of discrimination case studies and see how the cases were resolved.

At the end of this unit, you will be able to:

- Describe the various organizations and programs that work with the Office of Fair Housing and Equal Opportunity (FHEO).
- Identify components of housing discrimination, including types, practices, and associated issues.
- Explain Fair Housing landlord practices and the housing discrimination complaint process, including enforcement and penalties.
Fair Housing – Unit 2

Screen 2: The Office of Fair Housing and Equal Opportunity

The main agency tasked with the challenge of enforcing fair housing laws and protecting individuals from housing-related discrimination is the Office of Fair Housing and Equal Opportunity (FHEO).

The FHEO is an agency within the United States Department of Housing and Urban Development (HUD). HUD’s mission is to increase homeownership, support community development, and increase access to affordable housing free from discrimination. The mission of the FHEO is to create, administer, and enforce fair housing laws to ensure Americans have equal access and opportunity to housing without being discriminated based on race, color, religion, sex, national origin, disability, and familial status.

In addition to its enforcement of fair housing laws, the Office of Fair Housing and Equal Opportunity oversees a number of fair housing-related programs. There are also a variety of fair housing related agencies that work with the FHEO to help fulfill its mission, including the following:

- Fair Housing Assistance Program (FHAP)
- Fair Housing Initiatives Program (FHIP)
- Department of Justice (DOJ)
- Federal Financial Institutions Examination Council (FFIEC)
- Federal Reserve
- Federal Deposit Insurance Corporation (FDIC)
- National Credit Union Administration (NCUA)
- Office of the Comptroller of the Currency (OCC)
- Fair Housing Accessibility FIRST
- National Fair Housing Alliance (NFHA)

The following screens look at each of these programs, agencies, and organizations in more detail.
There are two main government housing-related programs that enhance the enforcement of fair housing laws, assist people who may have been victims of housing discrimination, and prevent housing discrimination through education and awareness. These two programs are the Fair Housing Assistance Program and the Fair Housing Initiatives Program.

**Fair Housing Assistance Program (FHAP)**

The Fair Housing Assistance Program provides annual funding on a noncompetitive basis to state and local agencies that enforce fair housing laws that are substantially equivalent to the Fair Housing Act.

The first time an approved state or local agency receives funds from FHAP, the funds are used for capacity building. Additional funding can later be requested for administration costs, processing complaints, training, implementation of data and information systems, and special projects.

**Fair Housing Initiatives Program (FHIP)**

The Fair Housing Initiatives Program provides funding to fair housing organizations and other nonprofits that assist people who believe they have been victims of housing discrimination by helping them contact their local government agency. FHIP organizations also conduct preliminary investigations of claims of discrimination, including sending “testers” to properties suspected of practicing housing discrimination. Many FHIP organizations also have initiatives that promote fair housing by spreading awareness of fair housing laws and explaining to housing providers what they need to do to comply with the Fair Housing Act.

The FHIP is the only federal grant program with the sole purpose of helping private organizations prevent and address housing discrimination issues.
There are many government agencies and organizations that work with the Office of Fair Housing and Equal Opportunity to create, monitor, and enforce fair housing laws.

**Department of Justice (DOJ)**

Under the Fair Housing Act, the Housing and Civil Enforcement Section of the Department of Justice may bring lawsuits where there is reason to believe that a person or entity is engaged in a "pattern or practice" of discrimination or where a denial of rights to a group of persons raises an issue of general public importance.

The Department of Justice also brings cases on behalf of individuals where a housing discrimination complaint has been investigated by HUD. However, the Fair Housing Act also allows individuals who believe they have been victims of illegal housing discrimination to file suits on their own behalf in federal or state courts.

**Federal Financial Institutions Examination Council (FFIEC)**

The Council is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC).

The FFIEC tracks and facilitates access to lending, rental, and other housing data, and makes recommendations to promote uniformity in the supervision of financial and housing-related institutions.
Federal Reserve

The Federal Reserve is the nation’s central bank and conducts U.S. monetary policy. It supervises and regulates banking institutions for safety and soundness and to protect the credit rights of consumers.

In relation to the Fair Housing Act, the agency monitors lending institutions to ensure a person is not unlawfully discriminated against when he or she applies for, or during the process of obtaining, a mortgage or home improvement loan.

Federal Deposit Insurance Corporation (FDIC)

The Federal Deposit Insurance Corporation (FDIC) is an independent agency created by Congress that maintains the stability and public confidence in the nation’s financial system by insuring deposits, examining and supervising financial institutions, and managing receiverships.

In regards to fair housing laws, the FDIC prohibits insured state nonmember banks from engaging in discriminatory advertising with regard to residential real estate related transactions. In practice, this means insured banks are required to publicly display either the “Equal Housing Lender” or “Equal Opportunity Lender” poster in clear view of the general public to see.

Additionally, lenders must keep records of the personal characteristics of a home loan applicant’s personal characteristics and report these to the Board of Governors of the Federal Reserve System where they monitor the data.
National Credit Union Administration (NCUA)

The National Credit Union Administration (NCUA) is the federal agency that charters and supervises federal credit unions and insures savings in federal and most state-chartered credit unions across the country. NCUA's mission is to promote and enforce compliance with fair lending and other consumer protection laws and regulations. Their mission is accomplished, in part, through compliance reviews during the loan examination process. NCUA hopes to further its mission to promote compliance by assisting financial institutions through education and guidance.

Office of the Comptroller of the Currency (OCC)

The Office of the Comptroller of the Currency (OCC) is an independent bureau within the United States Department of Treasury. It charters, regulates, and supervises all national banks and supervises the federal branches and agencies of foreign banks. Since it merged with the Office of Thrift Services (OTS) in 2011, the OCC now also charters, regulates, and supervises federal savings associations.

Its nationwide staff of examiners conducts on-site reviews of national and savings banks and provides sustained supervision of bank operations, including fair and equal access to financial services for all Americans. The agency issues rules, legal interpretations, and corporate decisions concerning banking, bank investments, bank community development activities, and other aspects of bank operations. The OCC's Customer Assistance Group is ready to help customers with questions or complaints they have about their financial institution.
Fair Housing – Unit 2
Screen 7: Ancillary Fair Housing Agencies & Organizations

Fair Housing Accessibility FIRST

The Fair Housing Accessibility FIRST is an initiative designed to promote compliance with the Fair Housing Act design and construction requirements. The program offers comprehensive and detailed instruction programs, useful online web resources, and a toll-free information line for technical guidance and support. HUD recently began providing free Fair Housing Accessibility FIRST training programs across the United States.

The FIRST in the program name describes the services the program offers: Fair Housing Information, Resources, Support, and Technical Guidance. It also illustrates the importance of planning for compliance first – before engineering, design, or construction of a building. The program points out it is much easier and less expensive to plan and build in compliance with fair housing laws than to fix issues after construction is complete.

National Fair Housing Alliance (NFHA)

Founded in 1988 and headquartered in Washington DC, the National Fair Housing Alliance (NFHA) is the only national organization dedicated solely to ending discrimination in housing. NFHA works to eliminate housing discrimination and to ensure equal housing opportunity for all people through leadership, education and outreach, membership services, public policy initiatives, advocacy, and enforcement.

NFHA is a consortium of more than 220 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. NFHA recognizes the importance of "home" as a component to the American Dream and hopes to aid in the creation of diverse, barrier free communities across the nation.
Screen 8: Types of Housing Discrimination

The Federal Fair Housing Act protects prospective and current tenants and homeowners from discrimination based on a variety of specific factors.

**Housing Discrimination Based on Race, National Origin, or Color**

The term *race* refers to groups of people who have differences and similarities in biological traits deemed by society to be *socially significant*, meaning that people treat other people differently because of them.

National origin discrimination involves treating people unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background.

Similarly, not renting to someone or not showing certain properties to a qualified tenant/buyer based on his or her color of skin is illegal.

**Housing Discrimination Based on Religion**

While there are not any housing laws that define religion, it is illegal to discriminate against any belief or faith system, including not having one. The one exception to this is groups based on racial discrimination such as the Ku Klux Klan; they are not protected by fair housing laws.

**Housing Discrimination Based on Family Status**

Families with children are protected from discrimination by fair housing laws. However, the law also protects women who are pregnant and households in the process of adopting a child, getting custody of a child, getting guardianship of a child, or who provide foster care for children.
Housing Discrimination Based on Marital Status

Marital status is defined as the status of being married, single, widowed, divorced, or separated and includes the status of living with a person in a conjugal relationship outside marriage.

Housing Discrimination Based on Age

In almost all situations, it is illegal for a person to be discriminated based on his or her age. However, there are some notable exceptions. The Housing for Older Person’s Act of 1995 (HOPA) exempts some communities from fair housing laws regarding age if they are designated as senior housing. Specifically, these include housing complexes for residents age 62 years or older; senior housing that has 80% of the units selected for tenants over the age of 55; and federal or state programs with properties devoted 100% to seniors.

Housing Discrimination Based on Gender

It is illegal to discriminate against someone based on his or her gender. The law also protects sexual harassment issues, such as a landlord requesting sexual favors in order to accept a tenant or repeatedly making sexual advances to a tenant.

While federal fair housing laws do not currently address gender expression, HUD is now actively engaged in a historic research effort to investigate housing discrimination based on gender identity and sexual orientation for the first time. Various states have already adopted such policies regarding gender expression and identity.
Housing Discrimination Based on Disability

A person with a disability is defined as having a physical or mental impairment that limits one or more of the following major life activities:

- Self-care
- Manual tasks
- Walking
- Breathing
- Seeing
- Hearing
- Speaking
- Learning
- Working

In order for a disability to be considered a handicap, the person must have a record of such impairment or be regarded of having the impairment.

With those criteria met, housing providers are required by federal law to allow reasonable accommodation in rules, policies, practices, services, or reasonable modifications to a dwelling in order to allow a disabled person the ability to apply for, use, and enjoy a unit. Housing providers are not required to make any reasonable changes that create any financial costs to them, but they must allow a tenant or occupant to make the changes at his or her own cost. Reasonable accommodation and modification will be discussed in more detail later in this unit.

Housing Discrimination Based on Emotional and Mental Impairments

A person with an emotional or mental impairment must be evaluated based on his or her rental history and current qualifications, not mental health status.

Specifically, federal fair housing laws regarding disabilities extend limited protection to two carefully defined groups:

- Recovering alcoholics—those who actively and regularly participate in a medically-based treatment or AA program
- Former drug addicts—including those who have prior convictions for illegal drug use (but not for drug dealing or manufacture)
Fair Housing – Unit 2
Screen 11: Types of Housing Discrimination (cont.)

Non-Federal Housing Discrimination Laws

Many states have enacted laws protecting discrimination issues that are currently not covered under the Fair Housing Act. It is important to be aware of these issues since the FHA may be amended in the future to include them.

- **Housing Discrimination Based on Source of Income or Rental Assistance**

  Source of income is defined as legal, verifiable income paid directly to a tenant or representative. Common legal sources of income include Social Security, Supplemental Security Income, unemployment insurance, veteran-related benefits, welfare, and medical assistance. It is also illegal in some states to discriminate based on a prospective or current tenant using Section 8 vouchers.

- **Housing Discrimination Based on Military Status**

  In some states it’s illegal to discriminate against someone for being a member or veteran of the armed forces. This type of discrimination also covers being evicted during military tour after being called to duty from the reserves. Other occupations are being included in this type of additional anti-discriminatory law.

- **Housing Discrimination Based on Domestic Violence, Sexual Abuse, and Stalking**

  Survivors or domestic violence, sexual abuse, and/or stalking often face difficulties finding rental units. While the Violence Against Women Act of 2005 protects individuals applying for government housing, this is not yet part of the Fair Housing Act. However, many states have created additional laws that apply to all dwellings.
It’s clear there are a variety of specific types of housing discrimination. However, another way to understand types of housing-related discrimination categorizes discrimination as either exclusionary or nonexclusionary.

These terms focus on when the discrimination occurs and not the specific reason someone is discriminated against.

**Exclusionary Discrimination**

Exclusionary discrimination occurs *during* the process of searching for a house to rent or buy. It constitutes any specific type of housing discrimination that excludes certain people from living in the housing they choose and qualify for. Exclusionary discrimination often involves landlords since they have the power to grant or deny a housing request. However, real estate agents, lenders, and insurance companies can also participate in exclusionary discrimination.

Most exclusionary discrimination cases involve refusing to rent to a qualified tenant, misrepresenting homes for sale or rent, or misleading or denying mortgage or insurance programs to qualified applicants.

Exclusionary discrimination is often subtle; for example, a landlord could lie about the already-established rental requirements so a prospective tenant doesn’t qualify for the rental. Or a real estate agent could steer prospective buyers away from an area of town by misrepresenting facts on a home for sale or simply not informing the buyers about all available homes they qualify for in that area.
Nonexclusionary discrimination occurs after a person has signed a contract and is living in a home. Offenders are typically landlords or neighbors who harass and essentially create a distressing environment for renters or owners. For example, this might look like a landlord not following the terms of the rental agreement, such as fixing maintenance issues in a timely manner. This also could involve unfair treatment of different tenants: raising rents or allowing special privileges for some tenants but not others.

Nonexclusionary discrimination also commonly involves neighbors harassing or intimidating other residents or owners. The basis for this harassment if often racial or religious, but can be any of the specific discrimination types previously discussed.

While exclusionary discrimination usually involves lying or misleading, nonexclusionary discrimination is usually more direct and confrontational. It typically includes verbal abuse and creates an uncomfortable environment for the renter or occupant. Worse yet, the renter or occupant is often required to live in the home due to a lease agreement or difficulty to sell a home.

**Important Differences between Exclusionary vs. Nonexclusionary**

The important piece to take away when distinguishing between exclusionary and nonexclusionary discrimination is when and how the discrimination is done.

- **Exclusionary**: Happens before a person moves into a home and is often subtle, such as lying or omitting information.
- **Nonexclusionary**: Happens after a person moves into a home and is often direct, such as harassment and verbal abuse.
There are many practices, terms, and issues associated with housing discrimination.

**Redlining**

Redlining is the practice of denying or limiting financial services to specific residents or neighborhoods, usually based on race or income. Although informal discrimination and segregation occurred before redlining officially started, it wasn’t formalized until the 1930s when the Home Owners’ Loan Corporation created color-coded maps of American cities using racial criteria to categorize lending and insurance risks.

Green lines were associated with affluent, racially homogeneous housing areas, and red lines depicted black and poor white areas that were less desirable. Banks and insurers adopted these maps and practices when making lending and underwriting decisions, which meant many African Americans could not secure home loans at all. This practice also affected other ethnic groups. The term *redlining* wasn’t coined until the 1960s, but it accurately describes exactly what was taking place: red lines on maps indicated where banks would not invest.

There were numerous damaging effects of redlining, including urban disinvestment and decay, racial segregation, lower property values, and an increase in landlord abandonment. Unfortunately, abandoned buildings, along with other factors, led to increased drug dealing and illegal activity in these communities.

While the practice of redlining was officially banned with the passing of the Fair Housing Act of 1968, there are still challenges today associated with redlining practices and enforcement.
Fair Housing – Unit 2
Screen 15: Housing Discrimination Practices and Terms (cont.)

Current redlining issues mainly revolve around the following:

- **Mortgages** – *Reverse redlining* occurs when a lender or insurer targets minorities to offer them the most expensive loan products. An example of this is subprime mortgages directed to black communities in the 2000s.

- **Retail** – *Retail redlining* involves businesses not serving certain areas based on their minority or ethnic composition and assumptions on how that relates to business.

- **Credit cards** – *Credit card redlining* is a spatially discriminatory practice of providing different amounts of credit to different areas based on their ethnic-minority composition instead of economic criteria.

- **Insurance** – *Linguistic profiling* occurs when an insurance company tries to determine the ethnicity of a policyholder by speaking to him or her on the telephone, which affects the services the customer is then offered. The automotive insurance industry has also been scrutinized for using demographic data by zip code to determine insurance rates.

- **Student loans** – Sallie Mae was sued in 2007 for using criteria to grant student loans that created an adverse impact on students attending schools with higher minority populations.

- **Environmental racism** – Policies related to urban decay have resulted in environmental racism such as smaller and poorer quality parks in urban minority areas compared to more affluent or white areas.

- **Liquorlining** – Liquorlining describes service providers who target low-income neighborhoods when those services are believed to have negative effects in the community. The term comes from high densities of liquor stores in low income and/or minority areas.
In addition to redlining, other housing discrimination practices and terms include blockbusting, white flight, black flight, planned shrinkage, and racial steering.

**Blockbusting/ Panic Peddling**

Blockbusting was a business practice where real estate agents and building developers convinced white property owners to sell their houses at low prices out of fear that black people would move into the neighborhood. The agents would then sell the houses at much higher prices to black families desperate to escape overcrowded areas.

The practice began after World War II and, although the Fair Housing Act of 1968 banned it, it didn’t fade from practice until the late 1970s.

**White Flight**

White flight is a term that originated in the United States in the 1950s and 1960s and applied to the large-scale migration of whites from regions that were racially mixed to more racially homogeneous suburban areas. The main reasons for moving were newer houses, better schools, and nicer neighborhoods.

**Black Flight**

Black flight refers to the out-migration of African Americans from predominantly black or mixed inner-city areas in the United States to suburbs and outlying edge cities of newer home construction. While the movement of blacks to the suburbs has been happening since segregation ended in the 1960s, the movement and term didn’t gain attention until the 1990s. The goals of both the white flight and black flight are similar: newer housing, better schools for their children, and more attractive neighborhoods.
Planned Shrinkage

Planned shrinkage is a controversial public policy involving the deliberate withdrawal of city services as a means of coping with diminishing tax revenue. The neighborhoods that experience planned shrinkage suffer from urban decay, crime, and poverty. Planned shrinkage policy often involves decreasing police patrols, fire protection, garbage removal, and street repairs.

Advocates say it’s a way to concentrate city services for maximum effectiveness while dealing with budgetary restraints. Critics argue it encourages undesirable populations and opens up areas for private development. Nonetheless, planned shrinkage was a strategy in the 1970s in New York City and more recently in New Orleans after Hurricane Katrina.

Racial Steering

Racial steering consists of real estate agents attempting to limit potential homebuyers to neighborhoods where current residents are predominantly of their race. Agents do this by guiding prospective homebuyers towards or away from certain neighborhoods or simply not showing or informing buyers about homes that meet their desires.

Despite being illegal, many real estate agents still engage in racial steering. An example of racial steering is an agent telling white buyers to avoid areas with a majority of black residents because “the schools are bad,” but then later marketing that same neighborhood to black buyers.

The practice of racial steering lowers the demand for housing in predominantly minority neighborhoods. Since real estate is one of the largest sources of household wealth, this devaluation is a significant source of economic inequality.
John Yinger, a sociologist and professor of public administration and economics who has studied housing discrimination, argues that discriminatory housing practices are most evidenced by concentrated poverty. Segregation, health risks, neighborhood impact, and wealth disparities all relate to areas with high poverty.

**Residential Segregation**

Often considered the biggest consequence of housing discrimination is residential segregation. Housing discrimination helps reinforce residential segregation through mortgage discrimination, redlining, racial steering, and predatory lending practices.

**Health Issues**

Health risks are a consequence of housing discrimination since people suffering housing discrimination are often living in small or low-quality housing. These dwellings often have lead paint left over from years ago, high air pollution, and animal infestations, which all result in health hazards.

**Neighborhood Impact**

Neighborhood problems are also seen as a result of housing discrimination and residential segregation. The housing inequality that comes with living in lower-quality housing means that neighborhood amenities are lacking. This is also a perpetual factor since poorer areas offer worse education, which leads to educational and employment difficulties and performance. Criminal activities are also more common in poorer areas.

**Wealth Disparities**

Housing discrimination becomes a barrier to homeownership since children of homeowners are less likely to drop out of school and they are able to grow up in an environment of homeownership. Further, housing discrimination that keeps families from owning a home leads to generational wealth disparities.
Understanding fair housing laws is the best protection a landlord has against a claim that fair housing law has been violated. The following is a list of fair housing landlord practices all landlords should know about and implement in their work or business.

**Advertising**

It is almost always necessary for landlords to advertise their rental properties to find tenants. When advertising, landlords must remember to describe property attributes and amenities, not what characteristics they wish to find in a resident. For example, a landlord choosing the words “great for a young couple” might be considered to be discriminating against families with children. It is also advisable for landlords to include the fair housing logo or a disclaimer that the community or property does not discriminate based on race, color, religion, national origin, sex, disability, or any familial status.

**Screening and Applications**

Many fair housing claims are a result of the application and screening process. Landlords should have a written rental policy detailing exactly what criteria are required for approval to live in their property. This includes information on the employment history/income requirements, credit standards, availability policy, occupancy standards, and an outline of the application process. The rental application should not ask about physical or mental disabilities, but can ask about prior evictions, bankruptcies, and why prospective residents are leaving their current residence.
Steering

Landlords should not try to direct prospective tenants to specific areas of a property or make comments on the “type” of people in the community. They should let the prospective resident see all available properties and let the prospect decide what he or she prefers. Additionally, landlords should never skip showing a handicapped person recreation areas based on the assumption that the person would likely not use those facilities, unless the prospective tenant specifically says he or she does not want to see an area.

Property Rules

It is acceptable for a landlord to have a set of rules for all residents to live by. The rules must be basic and nondiscriminatory, such as “residents and guests shall not run in the hallway” as opposed to “children shall not run in the hallway”. Landlords must enforce rules against all residents equally and keep records.

Record Keeping

Landlords should keep all records on prospective residents and current/past residents. Being able to produce consistent records showing nondiscriminatory application of written screening criteria is important if someone files a Fair Housing claim against a landlord.

In addition to the fair housing landlord practices just discussed, there are two types of practices landlords must follow specifically related to individuals with disabilities. These are reasonable accommodation and reasonable modifications.
Fair Housing – Unit 2

Screen 21: Reasonable Accommodation

Individuals with disabilities have the right to request exceptions to housing rules or policies in order to access housing, maintain housing, or have full use and enjoyment of housing. The request must be reasonable and not put an undue burden on the landlord or it can be denied by the landlord.

Below are a few examples of reasonable accommodation requests:

- A physically impaired tenant requests a reserved parking spot close to his or her unit entrance.
- A person who is hearing impaired requests to have a sign language interpreter present during the application process.
- If a landlord has a no-pet policy, a person who is sight impaired has the right to request an exception to that rule to accommodate his or her seeing-eye dog. Because the dog is not a pet and is an essential tool for the person to be active and mobile, the landlord could not charge any additional fees or deposits. However, if the dog caused any damage to the property, that would be the responsibility of the tenant.

Note: Fair housing laws require landlords to accommodate service animals. Companion animals are also considered service animals.

Landlords are not allowed to charge fees or deposits for any accommodations since that would essentially be allowing landlords to charge individuals with a disability more because of their disability. Remember, these are needs of the tenants, not wants or desires. They must be made for the disabled person to use and enjoy the housing unit fully.
A reasonable modification is a structural modification to a building or unit in order for a disabled person to use and occupy the unit. If a modification request is something that federal law requires the building or unit to have, the landlord is responsible for the cost of the modification. However, if the modification is not required by law, the landlord may grant the modification request, but the disabled person is responsible for the cost. The landlord may also require the modification be removed when the resident vacates the property.

Below are examples of structural modification requests:

- A tenant who uses a wheelchair requests permission to widen an interior doorway.
- The landlord allows the installation of a ramp at a condo where there are only stairs.
- A disabled tenant requests permission to install bathroom grab bars in the unit’s bathroom.

Landlords are not allowed to increase security deposits because of approved modifications. However, the landlord and tenant may agree to an escrow account to hold a reasonable amount of money not to exceed the cost of restorations. This is determined on a case-by-case basis by factors such as the extent of the modification, duration of the lease, and credit and rental history of the individual tenant.

**There is no limit to the amount of reasonable modifications and accommodations one person can request.** However, while it is not required, it is advisable that all requests and correspondence between landlord and resident be in writing.
The Fair Housing Act requires that new construction of covered multifamily dwellings comply with the Fair Housing Act's design and construction requirements. Covered multifamily dwellings are in buildings that have four or more units. It includes all of the ground floor units, and, in an elevator building, all units in these buildings. It applies to housing that was designed or constructed for first occupancy after March 13, 1991.

The Fair Housing Design Manual

The U.S. Department of Housing and Urban Development (HUD) created the Fair Housing Design Manual to assist designers, builders, and developers in understanding and conforming to fair housing design requirements.

To be in compliance with the Fair Housing Act, there are seven basic design and construction requirements that must be met.

Requirement 1. An accessible building entrance on an accessible route.

All covered multifamily dwellings must have at least one accessible building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site.

- An accessible route means a continuous, unobstructed path connecting accessible elements and spaces within a building or site that can be negotiated by a person with a disability who uses a wheelchair, and that is also safe for and usable by people with other disabilities.
- An accessible entrance is a building entrance connected by an accessible route to public transit stops, accessible parking and passenger loading zones, or public streets and sidewalks.
Requirement 2. Accessible public and common use areas.

Covered housing must have accessible and usable public and common-use areas. Public and common-use areas cover all parts of the housing outside individual units. They include building-wide fire alarms, parking lots, storage areas, indoor and outdoor recreational areas, lobbies, mailrooms and mailboxes, and laundry areas.

Requirement 3. Usable doors (usable by a person in a wheelchair).

All doors that allow passage into and within all premises must be wide enough to allow passage by persons using wheelchairs.

Requirement 4. Accessible route into and through the dwelling unit.

There must be an accessible route into and through each covered unit.

Requirement 5. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

Light switches, electrical outlets, thermostats, and other environmental controls must be in accessible locations.


Reinforcements in bathroom walls must be installed so that grab bars can be added when needed. The law does not require installation of grab bars in bathrooms, just the reinforcements.


Kitchens and bathrooms must be usable for all possible tenants. Specifically, that means they must be designed and constructed so an individual in a wheelchair can maneuver in the space provided.
Successful accessibility of the design and construction requirements is often measured in inches, so attention to detail can make the difference between achieving access and excluding or injuring someone. When the minimum requirements are not met, the results can limit or exclude access for a person with a disability. Sometimes lack of access can even be dangerous.

Below is a sampling of common accessibility errors or omissions that have been identified through review of a number of properties that do not comply with the requirements. It is not intended to be comprehensive or exhaustive. Any failure to comply with the requirements violates the Fair Housing Act.

Requirement 1 - Accessible Building Entrance on an Accessible Route

**Error:** The dwelling entrance has steps or the entrance walk is too steep, exceeding allowable slopes. Accessible entrance walks cannot be steeper than 1:20 (5%) unless they are designed as ramps. Ramps cannot be steeper than 1:12 (8.33%) and must have railings and edge protection.

**Consequence:** Steps can block access completely for people who are disabled. Steep ramps without safety provisions like handrails, edges, and landings can be dangerous because people using walkers, canes, and wheelchairs may fall off them. Wheelchair users and other people with disabilities cannot go up and down the ramp or may lose control while using it.
Requirement 2 - Accessible and Usable Public and Common Use Areas

**Error:** There is no accessible parking at site facilities. Accessible parking is required at facilities such as mailbox kiosks, laundry rooms, playgrounds, tennis courts, leasing offices, garbage dumpsters, etc.

**Consequence:** Many sites are large, and one way for a person using a wheelchair or other mobility aid to enjoy full use of the housing is to get in their cars and drive to the facility. Also, many sites are too steep for a pedestrian accessible route to connect each building entrance with site facilities. When accessible parking is not provided at facilities and amenities, persons with disabilities may not be able to use the facility.

Requirement 3 - Usable Doors

**Error:** Doors to walk-in closets and storage rooms do not provide a nominal 32" clear opening (31 5/8").

**Consequence:** Many people who use wheelchairs, scooters, or walkers cannot use a door with a less than 32" clear opening because the wheelchair is too wide to get through the door. All doors intended for passage must be accessible.

Requirement 4 - Accessible Route Into and Through the Unit

**Error:** Level changes at primary entrances exceed the allowable 1/2" between the finished floor of the unit and the exterior entry landing.

**Consequence:** Even small steps or level changes can completely block access for people who are disabled.
Fair Housing – Unit 2  
Screen 27: Common Violations of the Fair Housing Act Design and Construction Requirements (cont.)

Requirement 5 - Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations

**Error:** Switches are placed too high. Thermostats and other environmental switches are placed higher than 48" above the finished floor.

**Consequence:** People with limited reach may not be able to reach the thermostats and switches.

Requirement 6 - Reinforcing In Walls for Grab Bars

**Error:** Reinforcing is not placed in walls during construction around tubs, toilets, and showers.

**Consequence:** People who need to install a grab bar may not be able to adapt their dwelling without extensive construction. Fiberglass tub/shower units, which are very frequently used, are most effectively reinforced by having the reinforcement cast into the sidewalls of the unit at the factory.

Requirement 7 - Usable Kitchens and Bathrooms

**Error:** In the kitchen there is not 30" x 48" clear floor area parallel to and centered on the kitchen sink and range. Many times the sink or range is positioned into the "elbow" of an L-shaped kitchen, or sometimes in a small angled section of counter that doesn't provide a full 48" clear floor area.

**Consequence:** The purpose of the 30" x 48" clear floor area in front of the sink or range is to allow people using a wheelchair to position themselves in front of the sink to use it. If there is not a clear floor area centered in front of the sink, a person using a wheelchair may not able to reach the faucets and use the sink.
Fair Housing – Unit 2  
Screen 28: Enforcement of Fair Housing Violations

The Fair Housing Act has been strengthened since its adoption in 1968, but enforcement continues to be a concern. This is often because overt housing discrimination has decreased, but subtle forms still persist, such as being given false information, neighborhood steering, and the application of different criteria. As a result, the most common method used by fair housing enforcement agencies to expose discrimination is testing.

Fair Housing Testing

In 1991, the Civil Rights Division established the Fair Housing Testing Program and began testing in 1992. Testing refers to individuals posing as prospective buyers or renters of real estate for the purpose of gathering information to determine if a housing provider is participating in unlawful housing discrimination. A tester who receives misrepresentation from renters, sellers, or real estate agents has legal standing to sue under the Fair Housing Act.

Dealing with Testers

Testing for fair housing compliance is an investigative technique that must be recognized as a risk and a cost of doing business. A person involved in a testing situation should be aware of the following:

- Do not attempt to frustrate the tester.
- Treat the tester like any other customer.
- Respond only to the questions asked and avoid volunteering information concerning any violation topic.
- A tester doesn’t have to admit that he or she is a tester.

It is always best to treat all prospects as testers. Providing all prospects with equal professional services will keep everyone free from jeopardy.
Screen 29: Filing a Complaint

Anyone can file a complaint with the U.S Department of Housing and Urban Development (HUD) at no cost by telephone, mail, or online.

Click Here to view the online complaint form. Click Here for HUD office addresses and phone numbers.

Throughout the process, the person who filed the complaint is referred to as the “complainant” and the person accused of the violation is referred to as the “respondent.”

The Complaint Process

- **Step 1 – Intake** - After HUD receives the initial information, an intake specialist interviews the complainant to obtain facts about the alleged discrimination. The intake specialist then reviews the allegations to determine whether the matter is within HUD’s jurisdiction. If HUD has the authority to investigate, an official complaint will be filed. If the allegations are not within HUD’s jurisdiction, HUD must close the case.

- **Step 2 – Filing** - If a complaint is filed, HUD will attempt to refer the complaint to a state or local Fair Housing Assistance Program (FHAP) agency. As mentioned in the beginning of this unit, FHAP agencies receive funding from HUD and have laws that are substantially equivalent to the federal Fair Housing Act. However, if the agency does not begin working with the complainant within 30 days or there is no FHAP organization in the complainant’s region, HUD will handle the claim process. Formal filing of the complaint is sent to the complainant and respondent, and both parties must sign and acknowledge receipt of the formal filing.
• **Step 3 – Investigation** - As part of the investigation, HUD will interview the complainant, the respondent, and any necessary witness. HUD has the authority to take depositions, issue subpoenas and interrogations, and compel testimony or documents.

• **Step 4 – Conciliation** - The Fair Housing Act requires HUD to bring all parties together to attempt resolution in every fair housing complaint. Reaching an agreement is not mandatory, but if an agreement is reached HUD will end its investigation and close the case. If no agreement is reached, HUD will disclose its investigation results.

• **Step 5 – Investigation Results** - If HUD finds no reasonable cause to believe housing discrimination occurred, HUD will issue a determination of “no reasonable cause” and close the case. If the complainant disagrees with this decision, a request to reconsider can be granted and HUD will request any additional evidence and then make another decision. If no reasonable cause is still determined, the decision is final and the case is closed. The complainant may still file a civil suit if he or she chooses.

However, if the investigation shows reasonable cause to believe discrimination occurred, HUD will issue a determination of “reasonable cause” and charge the respondent with violating the law. Unless either party requests to have the case heard in federal civil court, a HUD Administrative Law Judge (ALJ) will hear the case within 20 days of the receipt of charges.
Penalties for fair housing violations can vary depending on whether the case is processed through the HUD’s court or the U.S. Department of Justice. As mentioned on the previous screen, once HUD charges a respondent with a fair housing crime, either party can elect to have the trial heard in a federal court. Federal court fines are typically larger than fines given through HUD’s court.

If a case is processed through HUD, a HUD Administrative Law Judge (ALJ) can issue the following civil penalties:

- Up to $16,000 for first time violators
- Up to $42,000 for violators who have been charged with a discriminatory fair housing practice during the 5-year period preceding the date of the current filing
- Up to $70,000 for violators with two or more previous Fair Housing Act violations during the previous 7 years

Note – U.S. Department of Justice civil penalties can reach as high as $150,000.

In addition to civil penalties, other penalties can include:

- Intangible damages to the complainant, such as embarrassment, humiliation, mental anguish, emotional distress, and psychological injuries
- Compensatory damages that include expenses while finding alternative housing, rent fees associated with alternative housing, and legal fees to process the claim
- Punitive damages in cases where there is clear evidence of malicious intent
- Attorney’s fees
Case Summary

An African American couple was denied a rental property due to their race/color. When the real estate agent responsible for leasing the property notified the owner there was a qualified couple for the rental, the owner specifically asked if the couple were Hispanic or black. The agent answered they were black, and the owner said she refused to rent to black tenants.

The real estate agent told the prospective tenants and her supervisor about the conversation. Subsequently, the brokerage terminated its listing agreement with the owner based on her unwillingness to rent to individuals who were “ready, willing, and able to rent.”

The black couple faced many hardships finding another rental that fit their needs.

The couple subsequently filed a lawsuit against the property owners, the real estate agent, and the real estate brokerage.

Ruling

The owners were found in violation of the Fair Housing Act, and the judge awarded each complainant $35,000 for the embarrassment, humiliation, and inconvenience they suffered because of the discrimination. The owners were also fined a civil penalty of $10,000.

The real estate agent violated the Fair Housing Act by answering the owner’s question about the race/color of the prospective tenant. The court ordered her to attend HUD approved fair housing training and pay a $100 civil fine.

The real estate brokerage was found vicariously liable for the agent’s actions, but the brokerage was not fined in the case.

Click here to view the complete court document.
Case Summary

A disabled man with multiple sclerosis was discriminated against by his apartment complex by being denied his reasonable accommodation request for a reserved parking spot in front of his apartment building.

The apartment complex had been notified when the disabled man moved into the building that he had a disability that caused mobility issues. The complainant was embarrassed by his condition and tried to hide it, but he finally requested the reserved parking spot six years after living in the apartment community due to increased parking difficulties and medical issues.

The management office said they denied his requests for a variety of reasons:

- He didn’t look like he had problems walking.
- They were afraid if he was granted a reserved parking spot everyone would want one. This was specifically a concern because a majority of their tenants were either disabled or elderly individuals.
- They contacted their state housing authorities who said state law only required them to have three handicap spots per building.

Ruling

The respondents were charged with discriminatory housing practice and ordered to provide the complainant a reserved parking space in front of his building. They were also ordered to pay emotional damages to the complainant in the amount of $2,500, and they were fined a civil penalty of $2,500.

Click here to view the complete court document.
The agency responsible for enforcing fair housing laws and protecting individuals from housing-related discrimination is the Office of Fair Housing and Equal Opportunity (FHEO), an agency within the United States Department of Housing and Urban Development (HUD).

HUD’s mission is to increase homeownership, support community development, and increase access to affordable housing free from discrimination. The mission of the FHEO is to create, administer, and enforce fair housing laws to ensure Americans have equal access and opportunity to housing.

The FHEO oversees a number of fair housing-related programs and work with a variety of agencies to help fulfill its mission. They include:

- Fair Housing Assistance Program (FHAP)
- Fair Housing Initiatives Program (FHIP)
- Department of Justice (DOJ)
- Federal Financial Institutions Examination Council (FFIEC)
- Federal Reserve
- Federal Deposit Insurance Corporation (FDIC)
- National Credit Union Administration (NCUA)
- Office of the Comptroller of the Currency (OCC)
- Fair Housing Accessibility FIRST
- National Fair Housing Alliance (NFHA)

The Federal Fair Housing Act protects prospective and current tenants and homeowners from discrimination based on a variety of factors.

- Race, national origin, or color
- Family status, marital status, age, or gender
- Disability, including physical, emotional, and mental impairments
- Religion

Housing discrimination can be categorized as either exclusionary or nonexclusionary.

**Exclusionary Discrimination:** Occurs before a person moves into a home and is often subtle, such as lying or omitting information.

**Nonexclusionary Discrimination:** Occurs after a person moves into a home and is often direct, such as harassment and verbal abuse.
Important housing discrimination practices and terms include:

- **Redlining** - the practice of denying or limiting financial services to specific residents or neighborhoods based on race or income.

- **Blockbusting** - a business practice in the mid 1900’s where real estate agents and building developers convinced white property owners to sell their houses at low prices out of fear that colored people would move into the neighborhood. The agents then sold the houses at much higher prices to black families.

- **Planned Shrinkage** - the deliberate withdrawal of city services as a means of coping with dwindling tax revenue.

- **Racial Steering** – occurs when real estate brokers attempt to limit potential homebuyers to neighborhoods where current residents are predominantly of their race.

- **Reasonable accommodation** – is a term related to individuals with disabilities having the legal right to request exceptions to housing rules or policies in order to access housing, maintain housing, or have full use and enjoyment of housing.

- **Reasonable modification** – is similar to reasonable accommodation, but involves a structural modification to a building or unit in order for a disabled person to use and occupy the unit.

- **Fair Housing Design Manual** – HUD created the Fair Housing Design Manual to assist designers, builders, and developers in understanding and conforming to fair housing design requirements. The Fair Housing Act requires that new construction of covered multifamily dwellings comply with the design requirements. It applies to housing that was designed or constructed for first occupancy after March 13, 1991.
Fair Housing – Unit 2
Screen 36: Unit Review

Fair Housing Enforcement – The most common method used by fair housing enforcement agencies to expose discrimination is testing. Testing occurs when individuals pose as perspective buyers or renters to determine if a housing provider is participating in unlawful housing discrimination. Testers have legal standing to sue a fair housing violator.

Filing a Fair Housing Complaint – Anyone can file a complaint for free through HUD via mail, phone, or online. After a complaint is submitted, there are five steps before it goes to trial:

1. Intake
2. File
3. Investigation
4. Conciliation
5. Investigation Results

Throughout the process, the person who filed the complaint is referred to as the “complainant” and the person accused of the violation is referred to as the “respondent.”

Fair Housing Violation Penalties

If a case is processed through HUD, a HUD Administrative Law Judge (ALJ) can issue the following civil penalties:

- Up to $16,000 for first time violators
- Up to $42,000 for second time violators
- Up to $70,000 for violators with two or more previous violation

U.S. Department of Justice civil penalties can reach as high as $150,000.

In addition to civil penalties, other penalties can include:

- Intangible damages, such as embarrassment, humiliation, mental anguish, emotional distress, and psychological injuries
- Compensatory damages that includes expenses while finding alternative housing, rent fees associated with alternative housing, and legal fees to process the claim
- Punitive damages in cases where there is clear evidence of malicious intent
- Attorney’s fees