



Fair Housing Resources for Landlords

The Idaho Apartment Association is Idaho's leading advocate and resource for those dedicated to quality rental housing.



Some of the 400 rental managers and owners who attended the 2018 Fair Housing Conference and Trade Show in Boise.



Equal Housing Opportunity Statement

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

Purpose of this Publication

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Fair Housing compliance is a duty of every Idaho landlord and property manager.

However, just knowing there are seven protected classes we aren't supposed to discriminate against isn't enough. We need to understand how to create and implement policies, practices and procedures and non-discriminatory business principles we consistently follow.

What's more, we need to protect ourselves from liability and bad press. There are organizations that "test" us and we need to treat every customer interaction like a test and design our business practices to pass that test every time.

Working together we can eradicate illegal housing discrimination and protect tenants and ourselves in the process.



Len Galus

Len Galus
2018 Board Chair



L. Paul Smith

L. Paul Smith, CAE
Executive Director



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Note: Nothing in this publication is intended as legal advice and you should consult your attorney for specific advice concerning your business practices and dealing with individual cases.

HUD AWARDS \$397,000 TO IDAHO FAIR HOUSING GROUPS - DOUBLE THE NATIONAL AVERAGE



HUD Secretary Ben Carson in Columbus, Ohio on a tour of a housing development.

Use the Equal Housing Opportunity Statement

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

Washington DC – The Intermountain Fair Housing Council was awarded \$300,000, and Idaho Legal Aid Services was awarded \$97,000 under HUD’s *Fair Housing Initiatives Program* (FHIP) to confront discriminatory housing practices.

Most of this money will go to fair housing testing and enforcement programs.

“Every person deserves a fair chance to live in a neighborhood free from discrimination,” said Secretary Ben Carson. “The funds announced today will allow our fair housing partners on the ground to combat housing discrimination and ensure every person has equal access to housing.”

Idaho groups received the highest amount of funding (\$0.23 per resident) of any of the Mountain West states and more than double the national average of \$0.11 per resident.

“We aren’t really clear why HUD gives double the funding to enforcement groups in Idaho as they do the rest of the country,” said Len Galus, IAA Board Chair. “Maybe it is because the industry hasn’t had an established trade association until now to educate landlords and property managers.”

Galus said it is important for our industry to prove to HUD that we are serious about Fair Housing so that they start funding these groups at the normal amount. He suggested

two things:

- 1 - Attend one of IAA’s Fair Housing Events or trainings.
- 2 - Study the Fair Housing Resources publication, IAA distributes.

“Fair Housing should be a top priority of the industry,” he says.





Fair Housing Starts with Tenant Screening

Tenant Screening is by far the most important part of being a successful landlord. In order to make money, reduce risk, and have the least amount of problems. Landlords should implement professional screening procedures. However - having the proper tenant selection and screening process is also key to avoiding inadvertent illegal discrimination.

Have a good screening process and apply it consistently.

Setting Rental Criteria

The first thing every landlord or property manager should do is determine the criteria they will use to select (qualify) tenants. In a fair housing world, tenant selection needs to be done on a first come first served basis. See page 5 for the concept of picking the “First Qualified Applicant”, and page 8 for sample rental criteria.

The Application Process

When your home or apartment is ready and available to rent, and a prospect expresses interest, we recommend that you get a deposit, application fee and have them fully complete a rental application.

Everyone over the age of 18 that will be living in the rental should fill out an application and have a credit/criminal check done on them. Landlords should NOT collect social security numbers on minors that will be living in the rental.

We encourage all landlords and apartment communities to increase safeguards that protect personal information, such as using double locked filing cabinets, never leaving files with personal information out, etc.

Security Deposits

Most landlords require a deposit before they will accept the rental application. The first purpose of a rental deposit is to assure that the applicant is serious and qualified. If an applicant isn't serious enough about the place to put down a deposit, they may still be shopping and applying around town, wasting landlords' time. If they can't afford to put down the deposit when they apply to rent, that tells you how close they live to the edge, and suggests that if they struggle to come up with a deposit, they are very likely to struggle to come up with future payments including rent.

When deciding how much to charge for your deposit, you should take into consideration not only the average damages that are done by tenants, but the worst case scenarios. Remember, you cannot charge a tenant with a medically necessary “Assistance Animal” a larger deposit. This has led to more and more landlords charging a larger deposit of

all tenants to ensure their interests are protected on the one hand and that they are not discriminating on the other hand.

Application Fees

It is also a good idea to get an application fee from each applicant to pay for the cost of doing a background check on them. The IAA can credit and criminal background checks for our members at a significantly reduced rate. For more information on having the IAA help you with background checks call 208-423-8173.

No One is “In Line” Until They Submit Fully Completed Application and all Amounts Due

For Fair Housing purposes the way you receive applications is important. Until someone is “in line” you can’t deny them and therefore can’t be liable for discrimination. Try your best to return calls/emails in the order they were received, but no one is in line until they:

- Submit a fully completed application
- Pay the deposit and application fee associated with that rental home

Denying Applicants

If you deny applicants for credit reasons, federal law requires that you give them a letter stating they were denied because of credit. If denial is for any other reason, you may give them written or verbal notice. Be sure to immediately refund their deposit and wish them well in finding another place. As mentioned on page 8, if you are denying them only based on their criminal history, you should give them an opportunity to appeal, if asked.

In a Fair Housing world, when you deny them, if it is for any reason other than credit, tell them they are denied because they did not meet your criteria in that area. For instance, if you deny for lack of income, refer back to that. For credit, refer to that. It is tempting to give them more info, but your good intentions might be turned against you in a discrimination complaint

What to do When You Approve Tenants

Get them to sign a rental agreement as soon as possible! Within 24 hours is the policy of most professionals. This prevents them from changing their mind on you after you start turning others away. Even if they don’t move in for several weeks, having a rental agreement in place will protect you from potential financial losses, and protects them from you changing your mind as well. It’s a win/win situation.

It also allows you to prepare the unit for any special requests they might have and enables you to go over the rules, expectations and obligations under the contract. Most landlords give renters a list of the things they will need before you give them the keys on move-in day including:

- 1. First month’s rent**
- 2. Account numbers for all utilities required to be in tenant’s name**
- 3. Proof of renter’s insurance with you listed as an “additional insured”**

WHY YOU SHOULD PICK THE “FIRST QUALIFIED “ PROSPECT

It is human nature to want to pick the “best”. We often do this by comparing one thing against another. While it may be natural for owners to want to compare prospects against each other. -BEWARE! Because of Federal Fair Housing Laws this can get you in trouble. Here is an example:

On Saturday morning Jane put a for rent sign in front of her duplex and spends the morning doing yard work around the property. At 9:00 am Marie shows up with two children, looks at the property and decides she wants it. While she fills out the application, her children run around the yard.

At 10:00 a nice looking young man, Derek, shows up. He tells you he is starting law school at the local university, is actively involved in his church, and that he wants to stay in the place the entire three years he is in school. As he fills out his application and gives you a deposit, he flashes Jane a smile that makes her swoon.

Jane decides Derek is the tenant for her and puts Marie’s application and deposit in an envelope and immediately mails it off without checking any references.

Two weeks later, Jane receives a letter from the anti-discrimination office, informing her that there is an investigation into her on housing discrimination for denying Marie Chaves, a single mother who is in a protected class, due to familial status, since she is a single mom with children.

Unless Jane can prove that Marie was not qualified, she will likely lose this case and incur a \$10,000 fine. Marie can also sue her civilly for damages. The problem is Jane didn’t even check Marie against pre-set criteria, so she will never know if Marie was qualified. In this case, even if Jane didn’t intentionally discriminate, the net result was that Marie was denied housing that she might have qualified for. Since she is in a protected class (familial status) Jane will be found to have discriminated. Derek may turn out to be a better tenant, or he may not. But at a cost of \$10,000 plus was it really worth it?

One of the biggest mistakes owners make is not having rental qualifications set in advance. Make sure you have them and that you use them as the only guideline in deciding to rent to an individual or to deny their application. The goal here is to give everybody a fair shot and to let them have the opportunity to see if they meet your standards. So instead of spending time hunting for the most qualified tenant, remember to look for the FIRST QUALIFIED APPLICANT!



Sample Rental Criteria

The following standards will be used to judge your application for tenancy. You must meet the following standards to qualify to sign a rental agreement with us. Applicants are judged on the same standards on a first come/first serve basis, one person or family at a time. Any incorrect inconsistencies on the application will result in an automatic denial of the application.

- **\$ (Owner/Manager sets the amount.) NON-REFUNDABLE APPLICATION FEE:** Each applicant over the age of 18 must pay an application fee and consent to have a background check done on them. Co-signers must also pay an application fee and give the same consent as other applicants.
- **SECURITY DEPOSIT:** Applicants must provide a check for the full amount of the security deposit (including any additional deposit amounts for pets or other reasons) for the application to be considered complete. The deposit will be returned if the application is denied.
- **PHOTO IDENTIFICATION:** All applicants over the age of 18 must provide current government issued photo identification at the time of application.
- **EMPLOYEMENT REQUIRMENTS:** Employment history should show that the applicant has been employed with their current employer for at least 6 months. Exceptions can be made for recent graduates who provide proof of graduation, current students who provide proof of enrollment, and self-employed applicants who provide a CAP-prepared financial statement or most recent tax return. Applicants with less than 6 months of employment with current employer may be approved if they pay an additional security deposit or have an approved co-signer and provide proof that they have been employed with their current employer for 2 months or were employed with their previous employer for at least 6 months. All employment history will be verified by contacting the employer.
- **INCOME REQUIRMENTS:** The combined income of all persons living in the rental must be at least three times the monthly rent. Applicants who do not have the requisite income will be considered if they provide a co-signer or provide proof of cash reserves equal to at least 12 times the monthly rent.
- **RENTAL HISTORY:** Applicants must provide the name and contact information for their previous two landlords, or all landlords in the last five years. Applicants must also provide all of the addresses they have lived at for the last five years. Applicants will not be approved if they have had any evictions, defaults in lease agreements, late rental payments, or if they owe any money to any other landlord.
- **RENTER'S INSURANCE:** Applicants will be required to have renters insurance before occupying the premises.
- **CREDIT HISTORY:** Your credit must reflect that all accounts are current. Applications for tenancy will be denied if you have filed for bankruptcy in the last 2 years, or if you have any bankruptcies that have not been discharged at least one year prior to the application. All collection accounts must be "paid in full/ as agreed". Applicants with past due accounts/accounts in collections may qualify if they pay an additional security deposit or have an approved co-signer.
- **CRIMINAL HISTORY:** Your application may be rejected if you have been convicted in the last 5 years of any crime against person or property that would present a threat to the owners or neighbors, or the rental property. Applicants on probation or parole must provide contact information for their parole officer. Applicants on a publicly available list of offenders who are required to publish their address will be denied. If the only reason your application is denied is due to your criminal history, you will be given the opportunity to present mitigating factors.
- **MAXIMUM OCCUPANCY:** 2 occupants per bedroom plus an additional occupant for each Apartment Home. I.e. 3 in a one bedroom/studio, 5 in a two bedroom, 7 in a three bedroom, etc.
- **PETS:** Pets may be approved if they meet the following requirements: a good reference from the previous landlord for the pet's behavior, a complete veterinary medical history (including immunizations and sterilization) is provided, an additional deposit is paid and an additional amount of "pet rent" is agreed upon. The owner reserves the right to deny the application based on the size, species or breed of the pet.

If your application is approved you will be notified. You will have 48 hours from the notification of your approval to sign a lease agreement. If you do not, then other applicants may be considered and given the opportunity to sign a lease.

We are committed to equal housing opportunity and provide housing opportunities regardless of race, color, religion, sex, national origin, physical or mental disability, familial status, or any other legally protected class.



The above sample rental criteria is intended as an illustration. You should create your own criteria for your individual needs and unique circumstances.

TENANT SCREENING: HOW TO DO IT RIGHT THE FIRST TIME

By Paul Smith

Tenant Screening is by far the most important part of being a successful landlord. In order to make money, reduce risk, and have the least amount of problems landlords should implement professional screening procedures.

No matter how well you think you know the tenant, you don't really know everything about them. Do not get fooled by the con-artist tenants who will try to convince you that you don't need to run a background check on them. Never act desperate, having no tenant is better than having a bad tenant.

Everyone over the age of 18 that will be living in the rental should fill out an application and have a credit/criminal check done on them. You don't need anything but the name of minors. Of course all landlords should increase safeguards that protect personal information of their tenants and applicants.

The purpose of tenant screening is to determine if a tenant is a reasonable risk.

Conducting background Checks

IAA recommends every landlord do what we call a "Five Finger" background check on all applicants. The five fingers are: Credit, Criminal, Financial (Income, employment and overall stability), Current Landlord References, and Previous Landlord Reference.

Verifying all five areas reduces risk significantly. It is easy for an applicant to lie or misrepresent in one or two areas but checking five aspects of their history makes it much less likely they will succeed in hiding bad history or serious concerns from you.

The purpose of tenant screening is to determine if a tenant is a reasonable risk. To be a good tenant means 1) paying the rent, 2) obeying the rules of the lease, and 3) keeping the property in good condition. Any chance that they might not be able to do these things is a legitimate reason to not rent to them, but anything else isn't necessary, and might be considered discrimination under the law.

A good screening process can save thousands of dollars in damage, legal costs, lost rent, etc. Don't use your gut instinct or cross your fingers that everything will be ok. Mistakes are too costly.

Rental Criteria

IAA recommends every landlord or property manager create a list of rental criteria, like the sample on the next page, that clarifies what your standards for occupancy will be. Each prospect is then measured up individually against the criteria in order of application. If they qualify, the apartment is rented and a lease should be signed within 24 hours.

Credit Checks

When checking someone's credit, you must have their consent. They give this by signing the rental application. You never want to accept a credit or criminal report from an applicant. Always use a third party.

The credit report contains many important pieces of information about a tenant's consistency in paying obligations, how much they owe and to whom, if they have judgments against them that could be garnished from their wages, their previous addresses, and more. Be sure to not just look at their credit score but at the type, amounts, and history of their individual credit accounts.

To a landlord, the riskiest things on a credit report are Bankruptcies, Judgments, collection accounts, Evictions, foreclosures, repossessions, and utility collection accounts

Criminal Background Verifications

There are many prospective renters who have serious criminal history that may make them a significant risk as a tenant. Landlords are encouraged to carefully evaluate a renter's criminal background.

Four of the riskiest types of criminal behavior are crimes of violence, drug possession or distribution, property crimes and sex crimes. Individuals who have been convicted of one of those crimes in the last few years are likely to do it again. It is not uncommon for landlords to require some time to have passed since conviction before they will rent to an individual with certain criminal history. Landlords are encouraged to consider the risk they are willing to take when renting to individuals who are on parole and probation and make an informed decision. However, you should avoid any blanket statements which say you will not rent to people with criminal history.

Income and Employment Verification

Doing financial checks that include verifying income, assessing whether someone has enough income, and assuring the income is regular and consistent is important. Common methods of conducting employment and financial checks include Calling employers or Reviewing pay stubs, tax returns or CPA prepared financial statements

Rental History Verification

One of the best indicators of future performance is past performance, so landlords are encouraged to verify an applicants rental history. Call two previous landlords if possible. Ask "objective" questions that involve a yes or no answer like "Did they pay their rent on time? Did they have any pets? Did they violate any of your lease or house rules? How many occupants did they have? Did they give proper notice? Did they leave on time? Did they owe you any money when they left? Were there any complaints or police incidents?"

APPLICATION TO RENT

Individual applications required from each adult occupant (All sections must be completed)

Date _____ Time _____

Last Name _____ First Name _____ Date of Birth _____

Social Security # _____ Driver's License # _____ State _____

Home Phone _____ Work Phone _____ Alt Phone _____

Email Address _____ Anticipated Move-In Date _____

Present Address _____ City _____ State _____ Zip _____

Date In: _____ Date Out: _____ Owner/Representative Name _____ Phone _____

Reason for Leaving _____

Previous Address _____ City _____ State _____ Zip _____

Date In: _____ Date Out: _____ Owner/Representative Name _____ Phone _____

Reason for Leaving _____

Name & Age of Other Applicants

Age	Name	Date of Birth	Social Security # (required if over 18 yrs old)	Drivers License #

Present Occupation _____ Employer Name _____

How Long _____ Name of Supervisor _____ Phone # _____

Address _____ City _____ State _____ Zip _____

Current Gross Income _____ * **proof of income is required**

Prior Occupation _____ Employer Name _____

How Long _____ Name of Supervisor _____ Phone # _____

Address _____ City _____ State _____ Zip _____

Financial Obligations: Please list financial obligations and monthly payment _____

Name of Bank _____ Address _____ Checking Savings

Emergency Contact: _____ Phone # _____ Relationship _____

- Have you or any person anticipated to occupy the premises:
- been convicted of any criminal offense (misdemeanor or felony)
 - been arrested, accused, detained, convicted, or otherwise involved in any sex related crime
 - have any outstanding warrants
 - been part of a plea agreement relating to any criminal activity
 - been listed on a sex offender registry
 - have any pending case or action related to criminal activity
 - been arrested or have any other criminal record not previously disclosed?
 - ever been on probation or parole?
 - consulted with a bankruptcy attorney
 - filed bankruptcy
 - been evicted

If any above apply, please explain _____

Do you or any person anticipated to occupy the premises Smoke? Have pets? If so what kind _____

Please return this application to _____

At _____

The undersigned makes application to rent housing accommodations designated as: _____

The rental for which is \$ _____ per month. Upon approval of this application, applicant agrees to sign a rental or lease agreement within 3 days of approval, and to pay all sums due, including deposits, before occupancy. If applicant fails to sign rental agreement in above stated time the landlord reserves the right to deny this application. An application fee of \$ _____ is non-refundable (an additional fee may be required for alias' or aka's). A Deposit of \$ _____ is required and can be refundable according to state and local laws.

Applicant represents that all of the above statements are true and correct and hereby authorizes verification of the above items including but not limited, rental history, criminal reports, employment verification, and obtaining of credit reports and agrees to furnish additional credit references on request. Applicant also attests that all occupants of the apartment will be legal to reside in the United States. All applications will be reviewed in the order received and judged based on the owner's rental criteria. Owner does not discriminate on the basis of race, color, religion, sex, national origin, disability, familial status or source of income. Criminal history will be evaluated on an individualized basis.

Dated: _____ Signed _____

PASSING FAIR HOUSING TESTING

By L. Paul Smith

Let's be honest, no one likes tests! But when failing a certain test can lead to fines or law suits, it is especially important to be prepared. In Idaho, multiple groups conduct testing to verify landlords are complying with Fair Housing law. Tests can be for any of the protected classes: race, color, sex, religion, country of origin, disability or familial status.

Paired Testing

When groups test, they generally use paired testers. This means they send (or have call on the phone) two applicants. They measure if the two prospective applicants are treated the same. One tester is not in a protected class (the "control" tester). The other is (the "protected class" tester). The tests are normally done on the same day, to the same leasing person or landlord. If the tests suggest the landlord uses discriminatory practices, a complaint is filed with the Housing and Urban Development (the Federal Agency in charge of Fair Housing). The most effective way to avoid red flags from paired testing is to be sure and treat EVERY PROSPECT the same.

What are red flags?

A landlord recently called after receiving a letter from the state notifying her it was beginning an investigation based on testing. In her case, she had twice been asked (a few weeks apart) if she allowed service animals. Both times she said yes, BUT, both times she told them she charged an extra \$500 deposit to have a service animal. That is an illegal practice. The first offense was the "red flag". The second led to a formal complaint.

According to the testers, a significant number of initial tests find "red flags" suggesting discrimination or discriminatory practice, leading to follow-up. Some of the red flags included:

- Apartment manager asked about the nature of a person's disability (a clear no-no)
- Tester was told there would be \$50 additional rent added each month for a service animal.
- A protected class tester was told no unit was available while a control tester was told there was one ready now.
- A protected class tester was referred to another complex while a control tester was shown a unit at that complex
- The control tester was offered a move-in special while protected class tester was not

Using Rental Criteria and Equal Treatment

The best way to help you treat everyone equally is to use the same process, procedure and criteria for everyone. Having a firm list of rental criteria can help make sure applicants are only judged on those items (income, credit, rental history, etc.) and not on some prohibited criteria like having a service animal or children in the home. See page 6 for a sample.

In addition to rental criteria, have, in writing if possible, a "script" you use with everyone. For instance, write down in advance how you will answer every question you might receive. When you do a tour, make it the same for everyone. When getting an application and doing screening, follow the same procedures and require same information from all.

What to Avoid when Renting a Vacancy

Answering questions differently can get you in trouble. For instance, if you ask one applicant how many people will live there, but ask another how many kids they have, it might look like you are discriminating against children.

Doing a tour of the grounds, pool and neighborhood for one person, but not doing it for the next could look like you prefer the one over the other. Treat everyone the same.

When you get an application, run it immediately. Don't wait for "a few to choose between". This could look like you are waiting for someone who "is not in that protected class" to rent to. That would be discriminatory.

Deny people only for failing one of your rental criteria, like insufficient income, poor rental or credit history, previous criminal history, etc. Never use your "gut" instinct. Denials must be based on qualifications, not feelings.

Housing Isn't a Right – but all Should Have Equal Opportunity

- You don't have to rent to someone in a wheelchair, who is also an axe murderer and has been evicted five times (the denial is for criminal history/rental history, not disability). But you should give everyone opportunity by letting them view the housing and apply if they think they can qualify.
- While you can set reasonable occupancy standards, you cannot deny families with children the opportunity to rent your place, if they qualify, simply because they have children. (Minimum occupancy standards should be 2 per bedroom +1)
- You don't have to rent to people who are loud and disturb others. But verifying families with kids were not too noisy at their last place and having them agree to abide by your noise standards rather than assuming they are too loud to live there gives them opportunity.
- To provide opportunity, your rental criteria shouldn't be so high as only to describe the top 1% of renters. It should be set only to screen out high risk individuals, not setting the bar so high that good tenants can't qualify.
- The best indicator of future performance is past performance. Give everyone an opportunity to show you how well they performed in their last rental, and base qualifications on that not how well they speak English.
- You don't have to rent to pets or allow people who are high risk. But if someone with an emotional support animal applies, give them an opportunity to verify they qualify for that "accommodation" for an assistance animal (and the commensurate waiving of all pet fees, pet rent, etc.). If you need help with that process please contact us.

Many landlords find people they were initially uncomfortable about but couldn't exactly say why, turn out to be great tenants when given the opportunity.

Whether it is a tester or an actual applicant, the best way to run your business and comply with the law is to provide opportunity for all, treat people equally and qualify tenants on risk based (not opinion or emotion based) criteria. If you do that, you will be successful in business and in passing Fair Housing testing.



ASSISTANCE ANIMALS

IDAHO'S GREATEST CHALLENGE

How to Deal with Requests for an Assistance Animal

It is ok for property owners to have a no pet policy. Pet owners are not a protected class. But if a current or prospective renter asks at any time for a service animal, companion animal, comfort animal (all called assistance animals) you need to be careful. If you are bound by Fair Housing Law you must allow these animals in *once you have verified that they are medically necessary.*

Upon receiving a request you should immediately have the person requesting the accommodation fill out the Assistance Animal Forms (copies can be obtained from the Idaho Apartment Association).

You cannot deny a reasonable request for a medically necessary animal.

If the animal is necessary for their disability, then they are allowed to have it. Even if it is an untrained dog. Or a cat. Or a hamster, gerbil, snake, tarantula, chicken or parakeet. Even if it is just a goldfish that helps them calm down (don't we wish they were all goldfish? No such luck)

You can verify that the person is handicapped and that the animal is necessary to assist their disability

This is important. You don't have to just take their word for it. You absolutely have the right to require some competent verification that



You cannot charge pet rent, pet fees or a pet deposit – because the animal is not a pet.

It would be considered a form of discrimination to make somebody pay more just because they are disabled. So you can't charge a

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

Assistance Animal Forms Instructions

Please read and review before use of these forms.

- Remember that neither HUD nor the State of Idaho has "approved" the forms. Usage always has some risk. Also, every case is independent and should be reviewed on its merits and facts.
- This form is for any Assistance Animal where it is not readily apparent the need for the animal. For example, if you are a landlord and you are not sure if you should allow a dog, you should use this form. Do not use this form if you are not sure if you should allow a dog.
- You can request the information on the animal and ask that the Resident affirms their request for the Assistance Animal.
- Give them the medical professional form as a guide. If the medical professional does not want to sign it and provides substantiating information to another form, it must be accepted. Remember to review your policy on who can provide this information.
- If the landlord provides any documentation from a medical professional or other qualified person, it should be reviewed to make sure it provides sufficient information to confirm the claim and to verify that the animal is needed for the disability.
- From the person who signed the form, obtain the following information:
 - The HSA/ADA is NOT REQUIRED. Many medical professionals will not discuss the patient without the HSA/ADA. Verify that the information has already been provided. If you are unable to verify, you should have the resident sign a statement that they cannot get the medical professional to provide the verification. Seek assistance from legal counsel and/or your regional manager in this circumstance.
 - It is the intent of these forms to gather sufficient information and verify that information to determine if a reasonable accommodation should be granted or not.
 - Failure to provide sufficient information may be grounds for denial. Sufficient information would include a diagnosis, the animal, verification from someone that the resident meets the requirements of the request, and the other information contained on the Animal Identification Form.
 - All accommodations should be made on a case-by-case basis. Personal information, accommodation generally must be made by those rules regarding breed restrictions and size & weight restrictions). These rules should be given to residents who submit.
- The forms should not be given out unless someone has filled out an application and is actually attempting to rent.
- Questions on Assistance Animals from prospective residents should be answered. The Community shall provide a copy of the forms to the resident as applicable to disabilities. Residents who do not have a disability should not be given the forms. If you are a landlord, you will then attempt to obtain sufficient verified information to determine if the request can be granted or not. If you are a landlord, you will then attempt to obtain sufficient verified information to determine if the request can be granted or not. If you are a landlord, you will then attempt to obtain sufficient verified information to determine if the request can be granted or not.
- If you have any questions or need to request a copy, contact your regional manager.
- If you think someone is trying your community on reasonable accommodation, contact your regional manager/owner and contact legal counsel.

Resident's Request for Assistance Animal

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

1. Handicap Definition
I am aware of the requirements of the Fair Housing Act and its definitions which include:
"Handicap" means, with respect to a person:
(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,
(2) a record of having such an impairment, or
(3) being regarded as having such an impairment. But such term does not include current, illegal use of or addiction to a controlled substance.

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

3. Impairment
The anticipated length of this disability is _____
My primary care physician is Dr. _____ whose telephone number is _____

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

Applicant's Name _____
Premises Address _____
Dated _____
Signature of Applicant _____

Medical Request for Assistance Animal

Name of Person making Request _____
A request has been made to allow an assistance animal to reside with the above named individual. Such request has been made pursuant to the Fair Housing Act. In order to qualify for an assistance animal exception to the normal rules of the community, the person making the request must qualify as a handicapped individual, which is:
"Handicap" means, with respect to a person:
(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,
(2) a record of having such an impairment, or
(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

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

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

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

Prescribed Animal's Description _____
Expiration Date of this Certification _____
Date _____
Signature of Medical Provider, Health or Social Service Professional _____

Animal Identification Form

Type of animal _____ Breed _____
Age _____ Approximate Weight _____ Color _____
Describe any special training or certification _____

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

Animals may not be in the common areas of the community unless on a leash or an approved device based upon the animal's certification.
Animals may be restricted from specific areas.
The animal's owners are responsible for cleaning up after the animal and for any damage done by the animal.
Animals may not disturb the peaceful and quiet enjoyment of the other tenants.
The Community may have other regulations and rules relating to animals.
I affirm that the animal is in compliance with all state and local laws concerning animals. I have read the rules and regulations concerning animals (both above and those policies of the community) and agree to them.

Resident's signature _____ Dated _____
Please provide a photo of the animal.

The form requires the party requesting the accommodation to specify what accommodation they are requesting, to identify the animal, to explain how that accommodation is related to a disability (for instance "having an assistance animal helps stabilize my bi-polar disorder") and who is the health or licensed professional that will attest that they do have a disability and do need the requested accommodation.

Once you have this form filled out, it is sent directly to the doctor. When it is returned, allow the animal or accommodation. If it isn't, you do not have to allow the accommodation.

Below is a brief overview of what you can and cannot do:

they are not just trying to get around the rules.

You can put in place Reasonable animal (not pet) rules

The Idaho Apartment Association lease has a provision that allows you to do this. Of course you can prohibit the dog from barking all over the night, peeing on the carpet, scratching up the door, being outside without a leash, pooping all over the yard without it being cleaned up, or biting the neighbors.

You can evict a tenant for not controlling their animal and charge them for any damage the animal has done.

If the tenant doesn't follow the reasonable animal rules you've established, then you can evict them. You can also charge them for any damage that their animal did.

larger deposit of the tenant with an assistance animal – but you can charge a larger deposit of all your tenants going forward to cover the potential risk posed by just a few.

One more thing. Don't ask about the nature and severity of the individual's disability. Instead, use the verification forms available on www.IAAHQ.com. We have worked on these forms for many years, even consulting with HUD. We are confident if you use them correctly and follow the instructions you can stay out of trouble. If you have questions email us at info@iaahq.com

NOTE: HUD's 10th District, which covers Idaho, has accepted this process and these forms.

AVOIDING FAMILIAL STATUS DISCRIMINATION

Many landlords aren't familiar with their responsibilities when it comes to renting to families with children or don't even know that families with children enjoy a protected status under federal housing discrimination laws.

The Federal Fair Housing Act protects tenants against discrimination based on seven protected classes, including "familial status." This means that if you refuse to rent to tenants simply because they have children under the age of 18 or you treat tenants differently because they have children, you may be violating federal law.

Here's a rundown on exactly whom the FHA's familial status discrimination ban protects and how it applies to your property.

It is fair to have reasonable limits on the number of people that can live in a rental home. However, when it comes to families with children you have to be extra cautious

What Types of Families With Children Does the FHA Protect?

The FHA's familial status protection is broad. Here's what you need to know to determine if the ban on familial status discrimination applies to your tenants:

1.The FHA protects families with children even if the children aren't living with their biological parents. Children may live with a biological parent, stepparent, foster parent, grandparent, or any other adult who has legal custody of them. In addition, if a child is living with someone whom a parent or legal custodian has designated in writing, then such a household is also protected against familial status discrimination.

2.The marital status of adult tenants is irrelevant. As far as familial status protection is concerned under the FHA, it makes no difference if the adult members of the family are

married, divorced, single, widowed, or separated. So, for example, a single father with one child is protected just as much as a married couple with three children.

3.Children must be under 18 years old. The FHA doesn't simply protect people who happen to be living with their children. For familial status protection to apply, the law requires that there be at least one person in a household under 18 years old. So, for example, a couple who's looking to rent an apartment with their 18-year-old son isn't protected (even if the son is still a high school student). Similarly, a couple who starts renting an apartment with a child when he's 17 years old will lose familial status protection on the child's 18th birthday.

4.Children don't have to be part of a household yet. Tenants are also protected against familial status discrimination if they're expecting a child to become part of their household. So, landlords can't discriminate against tenants because they're pregnant or in the process of adopting a child.

It is fair to have reasonable limits on the number of people that can live in a rental home. However, when it comes to families with children you have to be extra cautious, and the Department of Housing and Urban Development (HUD) has ruled that usually means allowing two people per bedroom, with one additional person in the rest of the unit. So in a two bedroom apartment you should allow a family of up to five people to live there, and in a one bedroom you should allow a family of three. (Again, this applies to families—unrelated individuals can have a different occupancy standard). Recently a large number of apartments nationwide have been taken to court for not using this standard.

This standard is especially important when it comes to a small apartments and tenants who are pregnant or who



have a newborn. Refusing to rent to such tenants (or making them move) is the most common violation of this rule, and will always get you in trouble. As far as a judge is concerned the amount of space and the additional wear and tear on a unit caused by a newborn is so negligible that if you were to force them to move to comply with a "two people per bedroom" occupancy standard it would be almost impossible to justify that in court.

Two other common problems with familial status discrimination involve steering and rules. Steering occurs when managers discourage a household with kids from renting upper floor units or in areas they want to have adults (like near the swimming pool). Don't do this, you'd be asking for a \$10,000 fine. When setting rules, you should make sure they don't have disproportionately negative effects on families. For instance, a rule that the swimming pool has "adult swim hours" when families can't go is discriminatory. Requiring adult supervision on a playground may also be discriminatory.

NOTE: For health and safety reasons it may be ok to set some rules for things like pools, but consult an attorney before setting any such rules.

Assistance Animal Terms

Accommodation Request: When someone with a disability requests a change in the rules, policies, practices or services that are necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. For instance, a person with a wheelchair may request an assigned parking stall closer to the building even if the policy is no assigned parking, a person with mental disability could request a rent reminder before serving a late notice because of trouble keeping track of due date, etc. The most common type of accommodation request is for an assistance animal. Someone can ask for an animal for physical or emotional needs and if a landlord verifies they are handicapped and need the animal, it must be granted with no additional fees or rents.

Modification Request: When someone with a disability requests a physical modification to the structure that would be necessary to afford the person equal opportunity to use the dwelling. For instance, a wheelchair ramp, grab bars in bathrooms, wider doors, lower countertops, etc. Unless the property receives federal funds, the owner can charge the tenant the cost of the modifications and can refuse modifications that are unreasonable (get legal advice).

Interactive dialogue: Where a landlord and a person requesting an assistive animal discuss ways to make everyone happy. For instance, a person requests a 175 lb mastiff as a companion animal in an apartment complex with only one bedroom apartments and no yard. Perhaps the dialogue involves whether a smaller animal would work. Or, a roommate in college housing wants a cat but another roommate is allergic? Maybe we can move people around so that people who like animals are grouped and those allergic are grouped elsewhere.

Exercising an “abundance of caution” and allowing all animals in until they become a problem: A strategy of some advocacy groups to convince landlords to let any animal in. We don’t advise you follow this because in the free market, the risk of damage from animals should be offset by higher rents, fees and deposits and you can charge these on assistive animal requests. Also, in no pet communities, when one person gets an animal, often you will get an avalanche of animal requests.

Assistance Animal Verification: The process where a landlord responds to a request for a companion animal by filling out forms/or having the requester do it if they can, and then follows up with the medical provider to make sure the person really is handicapped and what they are requesting is a medical necessity.

The three kinds of answers to an assistive animal request: 1) After attempting to verify the handicap and necessity of the animal, a medical provider says they don’t qualify under the Fair Housing Act, a landlord can say no. 2) After verification, finding everything is in order and the person is handicapped and has necessity for the animal, a landlord can say yes. 3) If the requester never turns in or gives the provider the information they need to verify, or if a medical provider does not respond, a landlord can say the request is pending, and the animal cannot move in until the verification is completed.

Readily Apparent: When a disability is obvious there is no need to verify the request for an accommodation. For instance, someone who is obviously blind would not have to get their seeing eye dog verified.

Assistance Animal Statistics

According to attorneys who negotiated with HUD, the government has acknowledged that 50% or more of the requests for assistance animals are fraudulent. Providers and attorneys say it is more

common to receive a request for a assistance animal once caught with an unauthorized animal, than to receive a bonafide request upon move in or when the disability occurs. Approximately 30% of doctors, when called to do a verification concerning is a patient is handicapped and has medical necessity for the animal say they did not understand what they were signing and retract their approval.

Several states, including nearby Colorado, are so concerned with fraudulent requests for assistance animals that they have passed laws making it a criminal offense and requiring doctors to use certain terminology. When told all assistance animal requests need to be verified, about 25% of requests instead agree to pay the higher rents or fees associated with the risk of pets.

Questions & Answers

Question: Do I have the right to “verify” the need for an assistance animal request?

Answer: Yes. If you don’t know how contact us and we will teach you the process.

Question: Can I charge a deposit on a service/companion or assistive animal? How about pet rent or pet fees.

Answer: No. Not ever. Think of it this way. We understand your intent is to protect yourself from damage. But do you charge wheelchair deposits? Wheelchairs do damage. No, you inspect on a quarterly basis and you charge them as damage occurs. That’s what you should do with assistive animals and here is why. Is someone charged \$1,000 deposit for white people, but a \$1,500 deposit for purple people, everyone would recognize that as discriminatory. When you charge extra deposit to persons with handicaps, it is the same as making able bodied people pay \$1,000 deposit and handicapped people pay \$1,500. It looks like, feels like, and has the effect of being discrimination. You can never charge any deposit, any extra rent, or any extra fees for having an assistance animal.

Question: How do I deal with competing disabilities such as one roommate asking for a service animal and another having an allergy to cats.

Answer: Do your best to have an “interactive dialogue” and try to work it out by moving people around if you can. If an allergy rises to the level of a handicap, likely the first accommodation request would trump the second. For instance, if my daughter had a handicap/allergy to cats, we would make an accommodation request to her student housing landlord that no cats be allowed in her apartment. That would then trump a later roommate’s assistive animal request for a cat.

Question: Isn’t fair housing a federal law? Why does Idaho need a state Fair Housing Act?

Answer: Most states also have a state Fair Housing Act that serves as a companion to the federal act. It allows states to add additional protected classes if they wish. But the most important reason states have their own act is that if a state has their own act they can apply for federal funds to do the adjudication of complaints. For instance, neighboring Utah has a state agency that processes and investigates fair housing complaints. It is part of the executive branch and accountable to the governor and the legislature. So if it is abusive or unreasonable members of the public can bring political pressure to bear on it and can change state law on how cases are handled, investigated, etc. Idaho has no such agency so unaccountable HUD employees in Seattle do all the processing and investigating of complaints. As such, there are much higher fines and landlords think the process would be fairer if their own state was in charge. That’s why IAA will be working with all stakeholders to help pass a Idaho Fair Housing Act and turn over processing and investigations to Idaho

CRIMINAL HISTORY AND RENTAL APPLICATIONS

On April 4, 2016, the United States Department of Housing and Urban Development (HUD) issued a Guidance relating to using Criminal History on applicants for rental housing. This Guidance was based upon a recent Supreme Court decision on disparate impact. HUD has opined that it may be a disparate impact upon minorities and thus, violate the Fair Housing Act for a landlord to utilize criminal history to deny an applicant.

Essentially, HUD determined that it could not create Criminals as a new protected class but found a way to imply that the current laws could be interpreted to make policies based upon criminal history appear to be discriminatory since statistically, minorities are more likely to have criminal history. The Guidance is not law nor does it have the same effect of a Rule. It is merely a Guidance to help HUD offices and state anti-discrimination divisions to review claims. The Courts will have to rule to give this any real effect.

The Guidance suggests that:

- Arrests cannot be the sole basis for excluding an applicant.
- Landlords must have an important and verifiable legitimate business interest to deny an applicant for a prior conviction.
- Applicants should have the ability to appeal for a review of a denial and provide mitigating circumstances and information.

It is likely that entities that test for fair housing violations will use this Guidance in testing communities for potential Fair Housing non-compliance. Consequently, it is important that all persons who may answer the phone are aware of this Guidance and have been properly trained in responding to questions about Criminal History. The suggested

response to any question on criminal history should be:

This community follows the rules and regulations relating to the Fair Housing Acts. Criminal history is evaluated as part of the application process. Since each applicant has differing history, only after an application is completed can a determination be made. Generally, persons on any sex offender list will be denied. Persons with convictions relating to distribution and/or manufacture of controlled substances will be denied. All others go through a process. We encourage all to come in and apply.

It is recommended that all landlords and communities revise the rental criteria policy and the information given to prospective applicants regarding criminal history criteria. Most likely testing and violations will initially center on the policies and criteria, not on actual complaints. However, there has been significant media coverage of this Guidance. Consequently, many applicants will be aware of the potential for a claim. The

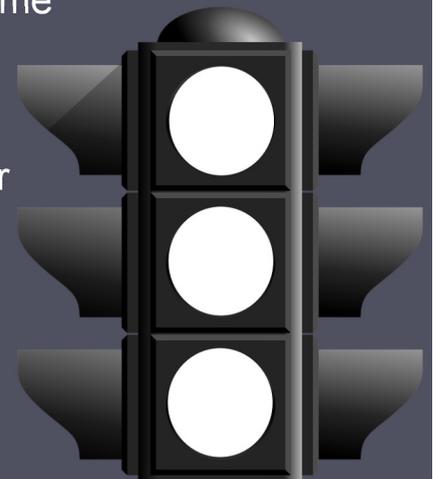
actual application of the new policies should be carefully adhered to and, where possible, additional basis for a denial should be used.

In addition to giving an applicant credit and reference criteria that will be used in evaluation of the application, the criminal history criteria should also be given. It is not necessary to be too specific in the disclosure to the applicant since the evaluation will be on a case by case basis.

Applications should be complete before starting the review process. Although the process for review should first consider credit, then references, and finally criminal history, it is important to obtain all the information required from the applicant before commencing the process. Questions on the application concerning criminal history should still be asked and answers should be required. Although arrests will now have a different consideration in the process, it is likely not a violation to still request the information. Particularly information about current and pending criminal activity.

Red Light/Green Light Policies

In light of HUD's recent criminal exclusion guidance issued in the wake of the Supreme Court's disparate impact ruling, property managers who have screening companies issue "Red Light/Green Light" or "Yes/No" recommendations need to make sure the rental criteria upon which they are based are updated to comply with the new guidelines.





The Idaho Rental Housing industry is made up of a wide variety of businesses; from owners, managers and developers of over 200,000 apartment and rental homes to the thousands of industry suppliers of products and services. Due to the scope and size of the industry, companies involved are often affected by local, state and federal government legislation policies. IAA members are supported by the government affairs committee on a local, state and national level.

OWNER BENEFITS

Legislative Advocacy at the state, local and national levels. IAA will work to eliminate gray areas and increase protections for owners and managers.

Monthly Meetings to connect industry professionals and relay valuable education relating to property management, legal issues, industry trends and other timely topics.

Education Opportunities including specific seminars on Fair Housing, operational challenges and more.

Legal Forms including leases, security deposit dispositions, legal notices and more.

Engagement with the National Apartment Association including national speakers on federal issues, trends in the industry and more.

Annual Education Conference and Trade Show to be held in May, highlighting products and services available and connecting industry professionals with valuable education and training.



MEMBERSHIP FEES

IAA Dues will be some of the lowest in the country at approximately 1/3 of the cost in surrounding states.

OWNER/MANAGER

0-9 Units	\$99
10-24 Units	\$149
25-50 Units	\$225
51-99 Units	\$275
100 Units	\$325 + \$1 per unit

ASSOCIATE MEMBERS (VENDORS)

< 5 Employees	\$245
5 + Employees	\$295