

The Most Common Housing Discrimination Complaint

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The Fair Housing Act (“FHA”) is a federal law that states that people should not face housing discrimination based on seven protected classes: race, color, religion, national origin, sex, disability and familial status. However, one particular protected class is the basis of far more fair housing complaints than others. According to the 2019 Fair Housing Trends Report from National Fair Housing Alliance (NFHA), 56.33% of the complaints logged in 2018 were complaints based on disability.¹ Similarly, the 2018 Fair Housing Trends Report revealed that 57% of all complaints in 2017 were based on disability.²

The FHA regulations define a person with a disability (“handicap”) as someone with “a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.”³ Mental or physical impairments include: “any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine”; any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities”; and “such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.” The term major life activity includes “functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.”⁴

Because of a disability, there are avenues under the FHA that allow for a person to ask for reasonable accommodations to rules, policies, practices, or services, and or reasonable modifications to existing premises that may be necessary for that person to enjoy a dwelling.⁵

So, what does discrimination look like when it comes to disability? Discrimination could be:

- “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

¹ National Fair Housing, *2019 Fair Housing Trends Report*, <https://nationalfairhousing.org/wp-content/uploads/2019/10/2019-Trends-Report.pdf>

² National Fair Housing, *2018 Fair Housing Trends Report*, <https://nationalfairhousing.org/2018-fair-housing-trends-report/>

³ 24 CFR § 100.201.

⁴ *Id.*

⁵ Northwest Fair Housing Alliance, *Disability Focus*, <http://nwfairhouse.org/disability-focus>

- a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; or
- in connection with the design and construction of covered multifamily dwellings for first occupancy after March 1991, a failure to design and construct those dwelling in compliance with 7 accessibility requirements.”⁶

Reasonable Accommodations & Reasonable Modifications Examples

In the case of a reasonable accommodation, a renter might ask for an exception to a rule or policy. For example, if an apartment complex has a strict “No Pets” policy, the renter could ask for an exception to be made for a prescribed emotional support animal that helps alleviate symptoms of major depression.

In the case of a reasonable modification, something tangible is usually needed to be modified or changed to meet the needs of a person with a disability. An example could be someone with osteoporosis who needs a grab bar installed in the bathroom.

Closings Thoughts

It is important to note, that just because disability is the most common basis for filed fair housing complaints, it does not necessarily mean that it is the one that occurs most often. It could be that any of the other protected classes experience discrimination just as often, if not more, but are not recognized, reported, or documented.

If you have questions or want to report a case of discrimination and live in Washington State you may contact Northwest Fair Housing Alliance, serving central and eastern counties, at (509) 325-2665, or the Fair Housing Center of Washington, serving central and western counties, at (253) 274-9523.

Information provided by Northwest Fair Housing Alliance (NWFHA) is intended to acquaint the public with issues implicating by fair housing laws, but is not intended as a substitute for legal advice. For more information about NWFHA visit our website at www.nwfairhouse.org.

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⁶ Northwest Fair Housing Alliance, *Protected Class: Disability*, <http://nwfairhouse.org/protected-classes/disability>