

# THE BASICS OF THE FAIR HOUSING ACT



*Presented by:  
Kristina Miller*

*HUD-Office of Fair Housing & Equal  
Opportunity (FHEO)*

[Kristina.Miller@hud.gov](mailto:Kristina.Miller@hud.gov)

206-220-5328



EQUAL HOUSING  
OPPORTUNITY

# Fair Housing Basics

- ❖ What is Fair Housing?
- ❖ Federal protected bases
- ❖ Covered issues
- ❖ Illegal Discrimination
- ❖ Who Must Comply?

# What is Fair Housing?

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**Fair housing is the right of all people to be free from discrimination in the rental, sale, or financing of housing.**



**Fair Housing means Equal Access**

# The Federal Fair Housing Act

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Prohibits discrimination in public and private housing on the bases of:

- ❖ Race
- ❖ Color
- ❖ National Origin
- ❖ Religion
- ❖ Sex (Gender, Gender Identity)
- ❖ Disability
- ❖ Familial Status (Presence of children under 18, pregnant female, securing custody, and designee of custodian)

# What issues are covered under the Fair Housing Act?

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Virtually ALL housing related transactions are covered, including:

- ❖ Renting or buying a house, an apartment, condo, or mobile home
- ❖ The terms or conditions of a rental or sale, such as rules & policies or contract terms
- ❖ Reasonable accommodations or modifications for a person with a disability
- ❖ Mortgage lending, appraisals, and insurance
- ❖ Advertising



# What makes discrimination illegal?

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- ❖ Discrimination means being treated differently than others
- ❖ Not all discrimination is illegal
- ❖ Illegal Discrimination = Covered Issue + Covered Basis

*Refusing to rent housing to someone (Issue)  
because she is a woman (Basis)*

# What makes discrimination illegal?

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**Discrimination can also mean a failure to reasonably accommodate a person's disability**

*A person who is disabled may need the landlord to waive or change their rules to afford the disabled person equal access to the dwelling or public & common use areas*



# What makes discrimination illegal?

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**Discrimination can also mean a landlord's neutral policy, when put into practice, has a greater negative effect on one group of people of a certain protected class more than another group of people**



*For example, an overly restrictive occupancy policy has the effect of discouraging families with children more than any other type of household*

# Illegal Discrimination Can Be...

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- ❖ Requiring a couple to move because they are having a child
- ❖ Performing criminal background checks only on African American men
- ❖ Evicting a white woman after learning her boyfriend is Mexican
- ❖ Refusing to rent to a woman because she has been a victim of domestic violence

# Illegal Discrimination Can Be...

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- ❖ Refusing to communicate with a deaf applicant via a Telecommunications Relay Service as a reasonable accommodation
- ❖ Refusing a tenant's maintenance requests because that tenant filed a Fair Housing complaint
- ❖ Failing to take action when a Muslim tenant complains that another tenant is harassing her because she wears a Hijab

# Who must comply with the Fair Housing Act?

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Can include, but is not limited to:

- ❖ Any person and/or entity involved in the rental or sale of a dwelling or the advertisement of a dwelling
- ❖ Any person and/or entity involved in the design and construction of new dwellings
- ❖ Any person and/or entity involved in other real estate related transactions such as mortgage lending, property/hazard insurance, zoning, municipal services

# This Means....

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- ❖ **Property Owners**
- ❖ **Property Managers**
- ❖ **Property Maintenance Staff**
- ❖ **Real Estate Brokers or Agents**
- ❖ **Homeowners/Condominium Associations**
- ❖ **Housing Authority Staff**
- ❖ **Housing Developers and Contractors**
- ❖ **Mortgage Lenders and Financial Institutions**
- ❖ **Advertising Media**



# Exemptions to the Fair Housing Act

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While HUD has jurisdiction over the vast majority of housing providers and housing-related transactions, the Act exempts some transactions from its coverage:

- ❖ **Single Family Home exemption** - private individual owns no more than 3 SFH houses
- ❖ **Mrs. Murphy exemption** - 4 or less rooms or units and the owner actually maintains and occupies one of such living quarters as his/her residence
- ❖ **Housing for older persons** - exempts housing only from the familial status provisions of the Fair Housing Act
- ❖ **Religious organizations and Private Clubs**

# HUD FHEO's Complaint Process

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- ❖ **Intake** - Determines Jurisdiction
- ❖ **Investigation** - Determines Cause or No Cause
- ❖ **Conciliation** - Settles the Complaint
- ❖ **Charge** - Initiates an Administrative Action

# INTAKE-DETERMINES JURISDICTION

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- ❖ Jurisdiction means the ability to apply the law to a complaint.
- ❖ The Office of Fair Housing can only investigate jurisdictional complaints, which are complaints covered by the laws we enforce, such as the Fair Housing Act, Section 504 and Title VI.

# KEY ELEMENTS OF JURISDICTION UNDER THE FAIR HOUSING ACT

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- ❖ Complainant-Person and/or entity who's allegedly been harmed/injured by a discriminatory housing act
- ❖ Respondent-Person and/or entity who allegedly committed a discriminatory housing act
- ❖ Subject Property - The housing involved is not exempt under the Fair Housing Act

# KEY ELEMENTS OF JURISDICTION UNDER THE FAIR HOUSING ACT

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- ❖ **Issue**-Issue alleged must be covered under the Fair Housing Act
- ❖ **Basis**-Basis alleged must be covered under the Fair Housing Act
- ❖ **Basis and Issue Are Connected**-Allegations that the Issue happened because of a Basis covered under the Fair Housing Act
- ❖ **Timely**-Complaint must be filed with FHEO within a year of the last alleged discriminatory housing act

# INVESTIGATION-DETERMINES CAUSE OR NO CAUSE

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**Cause** means the evidence gathered during the investigation revealed cause to believe housing discrimination occurred

**No Cause** means the evidence gathered during the investigation revealed no cause to believe housing discrimination occurred

# Investigative Evidence Gathered

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Can include, but is not limited to:

- ❖ Complainant and Respondent Interviews
- ❖ Witness Interviews
- ❖ Follow up Interviews
- ❖ Document Reviews, including leases, house rules, violation notices, termination of tenancy notices, tenant files, maintenance records and court papers

# CONCILIATION

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- ❖ Throughout the course of the investigation both parties have the option to resolve the complaint by settling it in a no fault conciliation agreement
- ❖ HUD serves as the mediator and will convey offers and counteroffers to both parties
- ❖ FHEO also represents the public

# CONCILIATION



- ❖ While FHEO is required by law to offer conciliation, the process is voluntary for the respondents and complainants
- ❖ Generally, a conciliation agreement will include a provision of remedy for the complainant and a public interest remedy, such as training or record keeping
- ❖ FHEO monitors the agreement to insure that the respondent complied with the terms of the agreement

# A CHARGE OF DISCRIMINATION

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- ❖ A Charge of discrimination is issued by HUD's Legal Counsel when there is evidence of discrimination and the parties choose not to settle the complaint in the conciliation process
- ❖ A Charge of discrimination initiates an administrative action

# A CHARGE OF DISCRIMINATION

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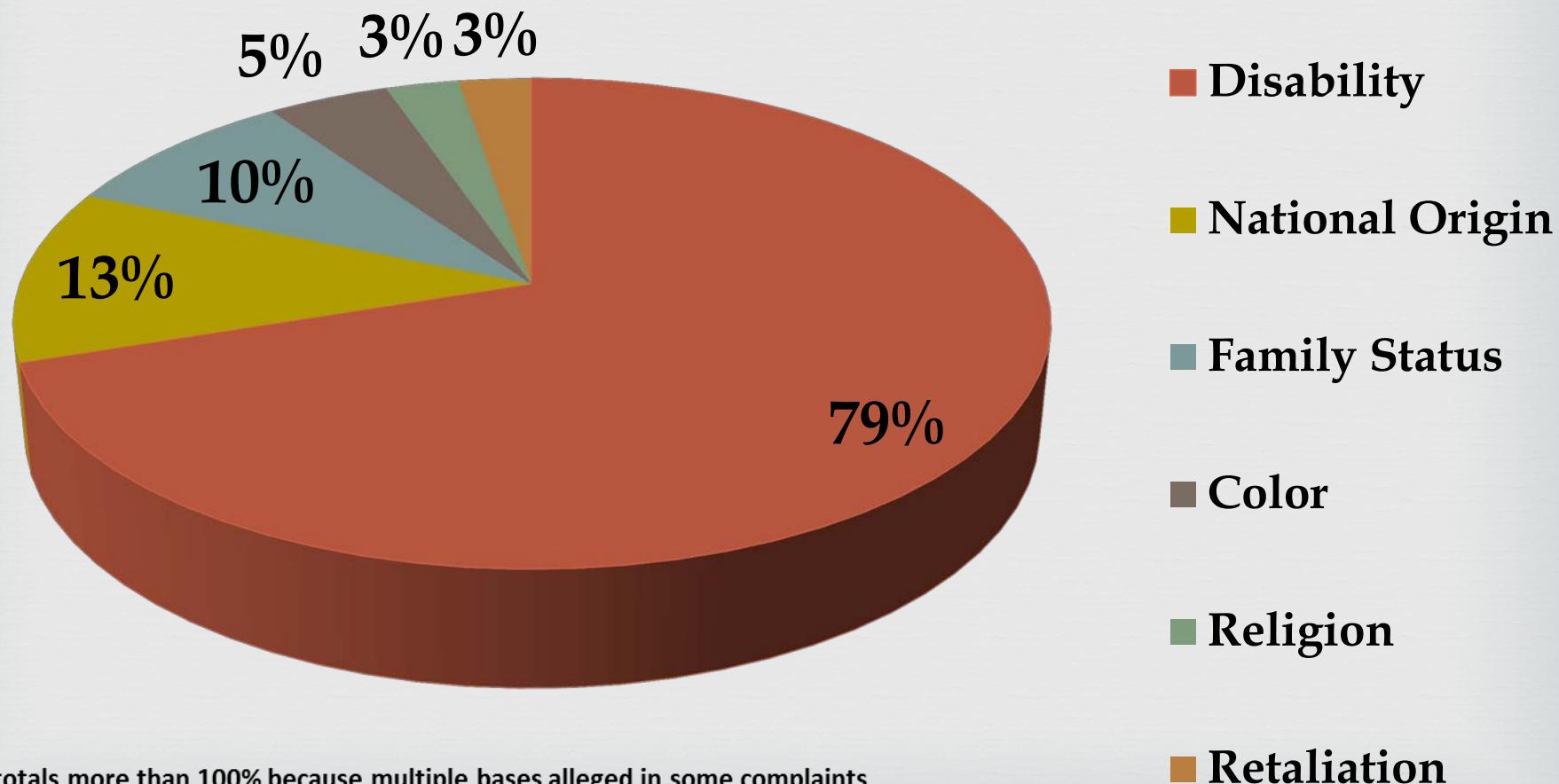


- ❖ Parties can elect to have their case heard in federal court
- ❖ If neither party elects this option, then the case is heard before an Administrative Law Judge (ALJ)
- ❖ In federal court, the Department of Justice tries the case. If heard before an ALJ, HUD attorneys try the case.



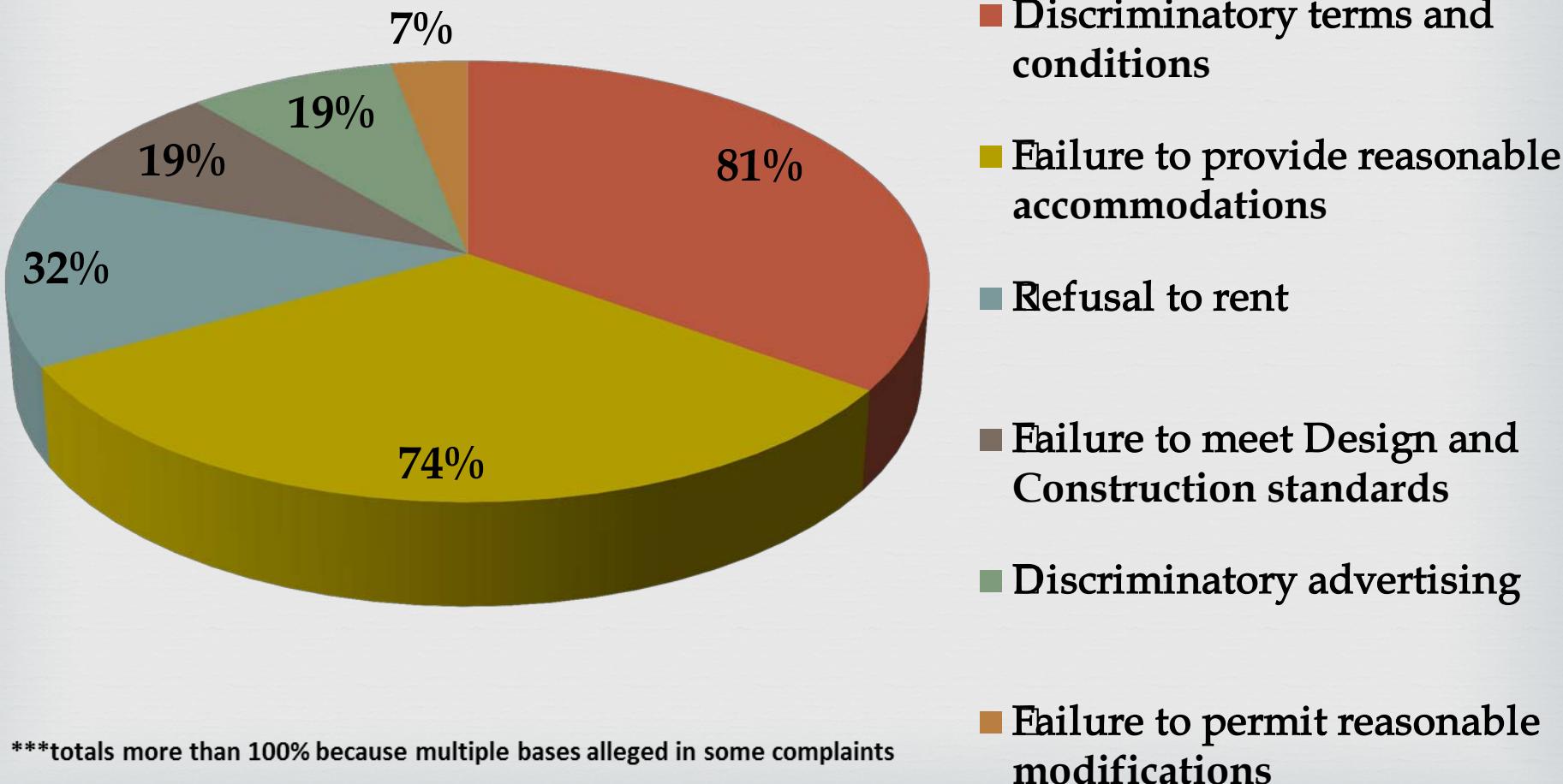
# Idaho Complaint Statistics

39 Complaints with allegations of discrimination in Idaho were filed with HUD FHEO in Calendar year 2015





# Issues alleged in the Disability based complaints



# 74% of the Reasonable Accommodation complaints involved

## *Assistance Animals*

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Some of the allegations:

- ❖ Denial of assistance animal, no exceptions
- ❖ Limiting species of animal (no cats, no snakes)
- ❖ Charging monthly fees and/or deposits for assistance animals
- ❖ Requiring assistance animal be state certified
- ❖ Requiring tenant to disclose nature, severity and duration of disability
- ❖ Requiring tenant to sign a release of any information about tenant's disability

# Other Reasonable Accommodations

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- ❖ Removal of a smart meter which exacerbates the symptoms of disabilities and replace with an analog meter
- ❖ Smoke free unit
- ❖ Assigned parking close to disabled tenant's unit



# QUESTIONS?