

THE BASICS OF THE FAIR HOUSING ACT



Presented by:
Kristina Miller
*HUD-Office of Fair Housing & Equal
Opportunity (FHEO)*

Kristina.Miller@hud.gov

206-220-5328



Fair Housing Basics

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

What is Fair Housing?



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



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?



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?



- ❧ 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?



**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?



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...



- ❧ 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...



- ❧ 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?



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....



- ❧ 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



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

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

INTAKE-DETERMINES JURISDICTION



- ❧ 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



- ❧ **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



- ❧ 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



☞ **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



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



- ✧ 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



- ❧ 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

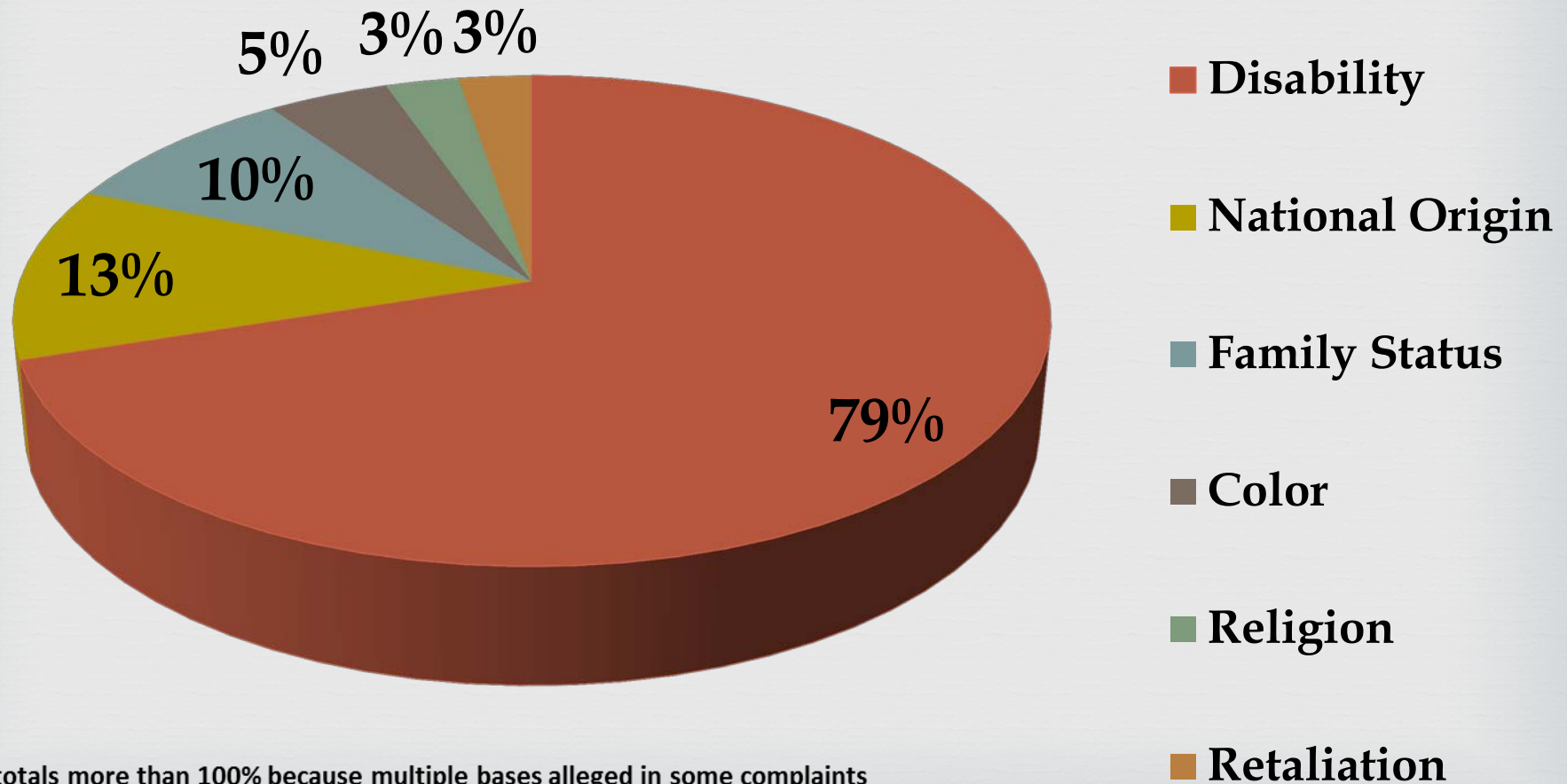


- ❧ Parties can elect to have their case heard in federal court
- ❧ If neither party elects this option, then the case is heard before an Administrative Law Judge (ALJ)
- ❧ In federal court, the Department of Justice tries the case. If heard before an ALJ, HUD attorneys try the case.



Idaho Complaint Statistics

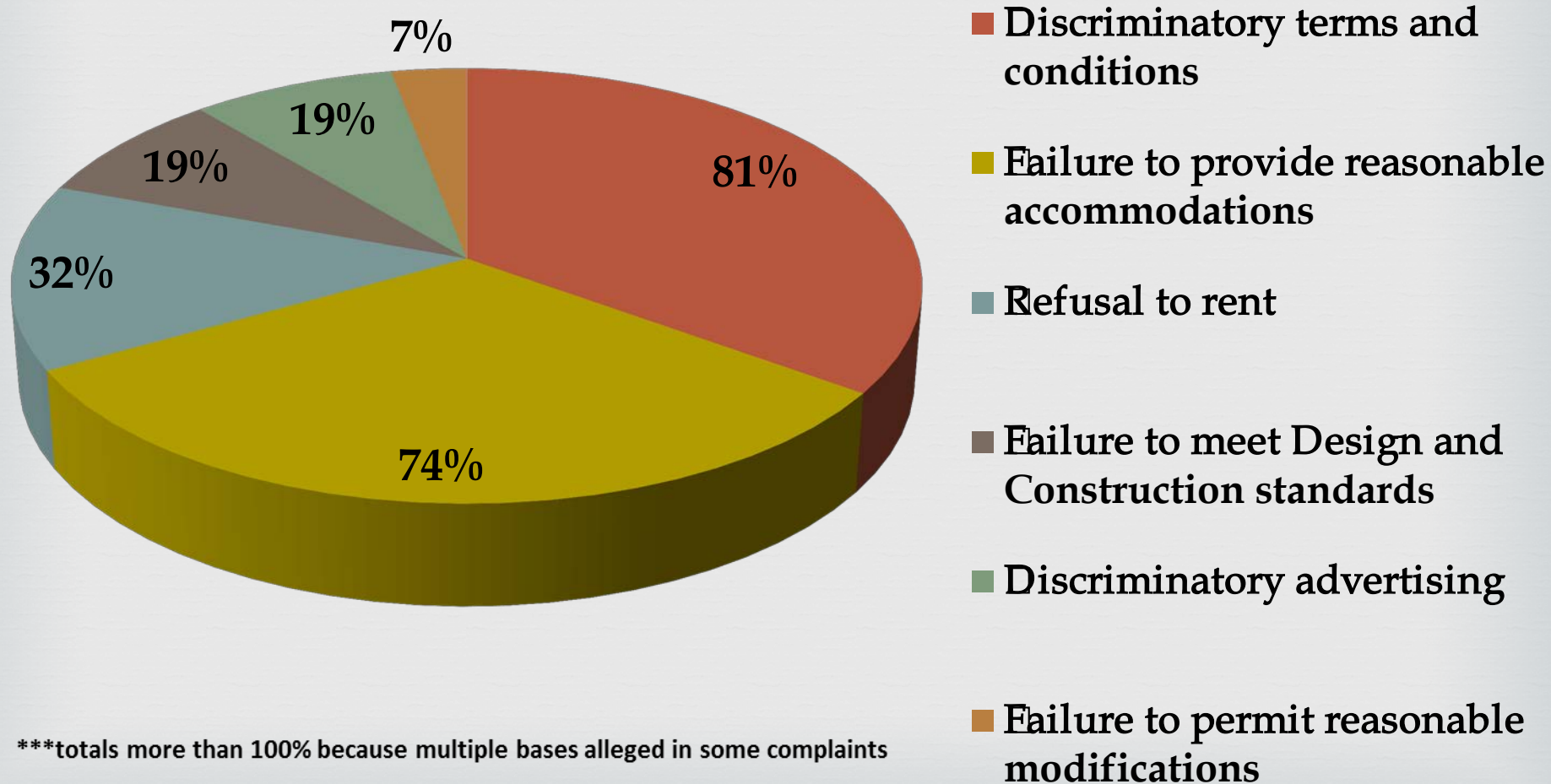
39 Complaints with allegations of discrimination in Idaho were filed with HUD FHEO in Calendar year 2015



***totals more than 100% because multiple bases alleged in some complaints



Issues alleged in the Disability based complaints



74% of the Reasonable Accommodation complaints involved *Assistance Animals*



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



- ❧ 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?