

An Introduction to Fair Housing

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Equal Rights Center

Objectives



- Recognize potential housing discrimination that renters may face
- Identify how renters are protected by federal, state, and local fair housing laws
- Identify how to report potential housing discrimination

Mission of the ERC



The Equal Rights Center is a civil rights organization that identifies and seeks to eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of Greater Washington, D.C. and nationwide.



Arlington County Testing Contract



- From June 1 – September 30, 2024, the ERC conducted 65 tests of 50+ housing providers in Arlington County.
- Tests were conducted by phone, email, and in person.
- Tests were based on multiple protected classes – including familial status, race, national origin, disability, and source of income.
- The ERC recommends and hopes to continue testing in Arlington County on an annual basis. Regular testing can help uncover discriminatory policies and practices as well as identify widespread or emerging trends.

Fair Housing Act (FHA)



- Title VIII of the Civil Rights Act of 1968 & the Fair Housing Amendments Act of 1988
- Protects individuals from discrimination in housing



Photo, Item 63893, Courtesy of Seattle Municipal Archives

Fair Housing



Applies to ALL housing-related transactions:

- Rental
- Sales
- Lending
- Insurance
- Homeowners Associations



**EQUAL HOUSING
OPPORTUNITY**

Fair Housing Act Protected Classes

- Race
- Color
- National Origin
- Familial Status (families with children under 18)
- Disability
- Religion
- Sex (includes gender identity and sexual orientation)



**EQUAL HOUSING
OPPORTUNITY**

Additional Protected Classes



Virginia

- Elderliness (55+)
- Sexual Orientation
- Gender Identity
- Source of Funds
- Military Status

Arlington County

- Elderliness (55+)
- Sexual Orientation
- Gender Identity
- Source of Funds
- Marital Status

Prohibited Activities



- Refusal to sell or rent
- Discriminatory terms and conditions
- Advertising a discriminatory preference
- Misrepresenting availability
- Blockbusting or steering



Prohibited Activities

- Harassment, threats, intimidation, coercion
- Inaccessible design
- Retaliation
- Any other conduct which makes unavailable or denies dwellings



Source of Funds

Source of Funds



All legal sources of income, including

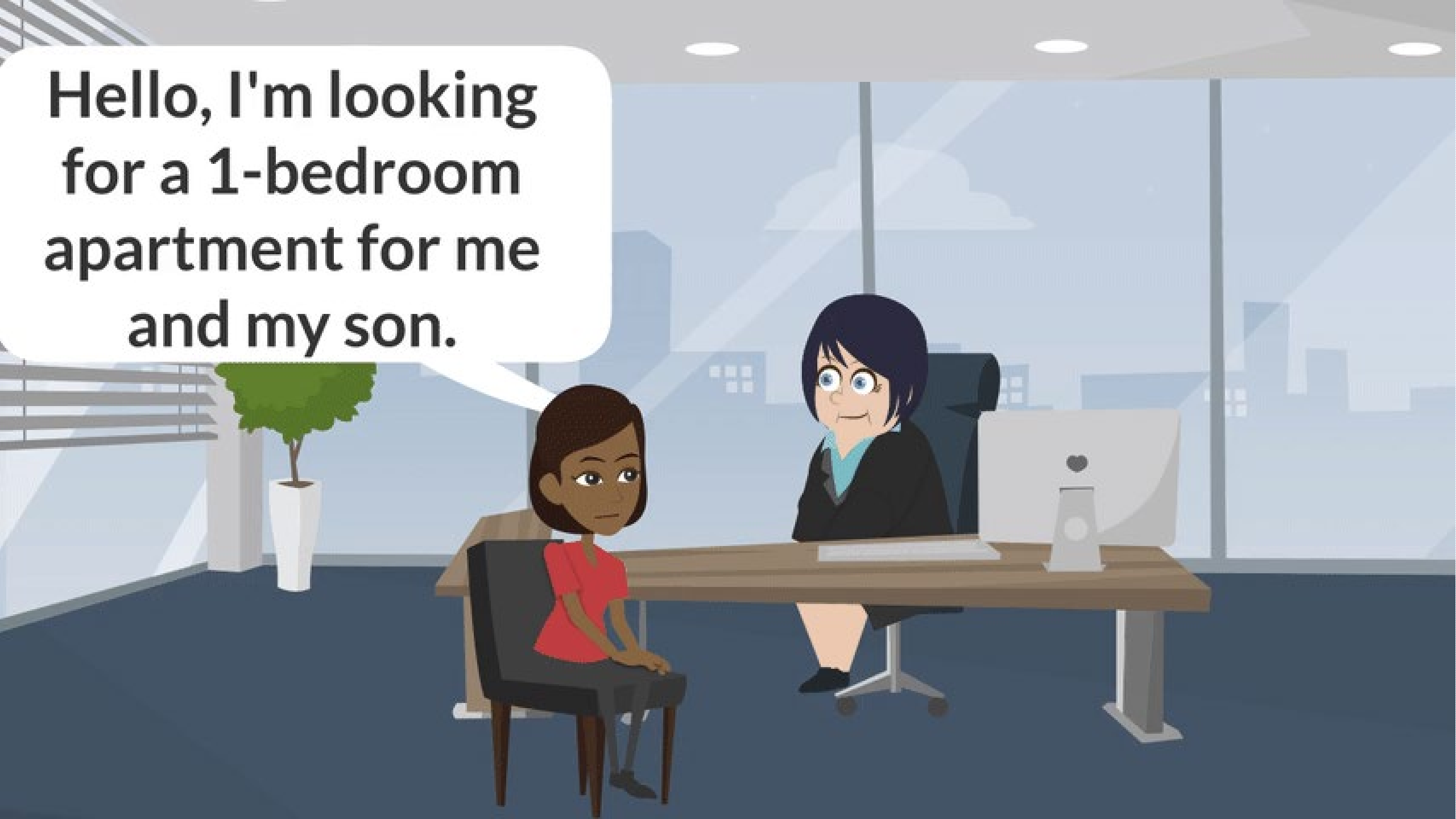
- Payments from federal and local programs
- Short- and long-term rental subsidies
- Housing choice vouchers (Section 8)
- Emergency assistance
- Social Security Supplemental Security Income (SSI)
- Unemployment insurance
- Alimony
- Veteran benefits
- Disability benefits

Common Examples of Source of Funds Discrimination



- Refusal to accept vouchers at a property
- Discriminatory minimum income requirements towards voucher holders during the application process
- Advertising “no vouchers accepted”

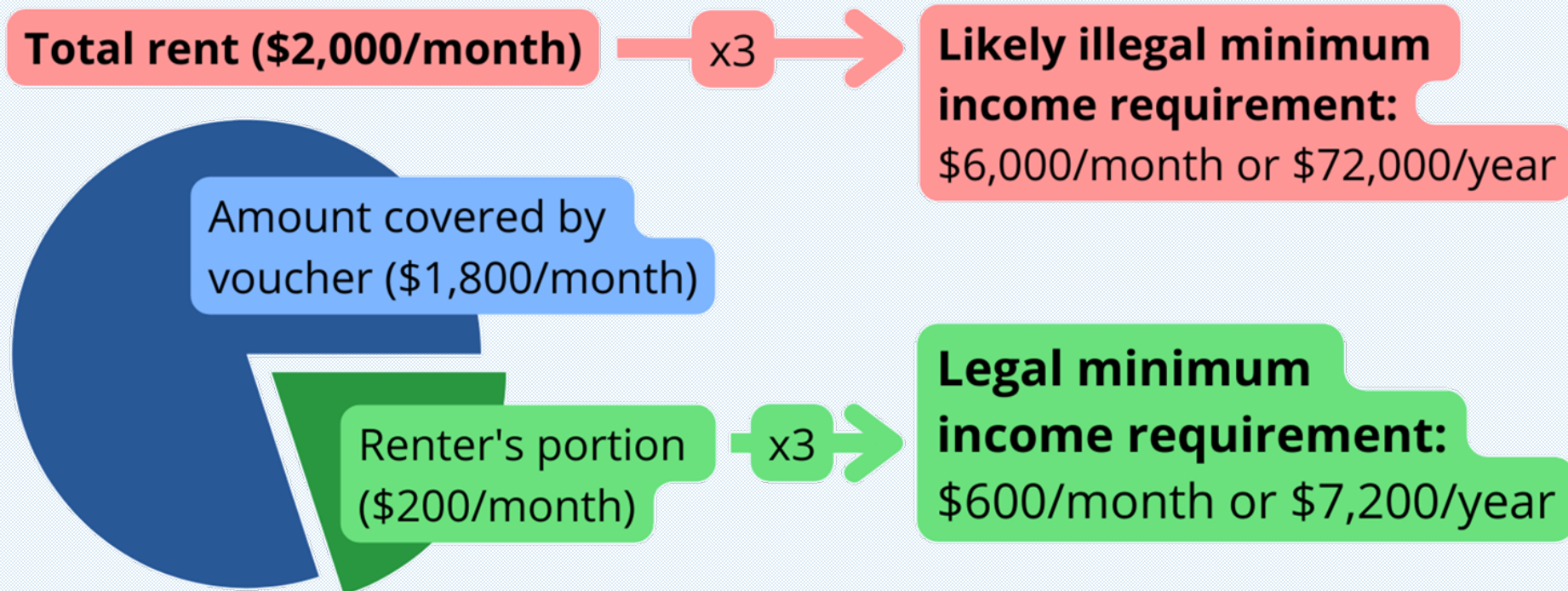
**Hello, I'm looking
for a 1-bedroom
apartment for me
and my son.**



Minimum Income Requirements



- Should only consider the portion of rent that the voucher holder pays



Source of Funds Exemptions



A housing provider is exempt from the source of funds protections in Virginia's fair housing law if:

- They own no more than 4 rental units in Virginia or
- The Public Housing Authority takes more than 15 days to approve the RFTA package

Source of Funds Exemptions



- 15-day timeframe begins when a housing provider submits a complete Request for Tenancy Approval (RFTA) package to the voucher administrator.
 - If the package contains errors or is incomplete, the timeframe does not start until the housing provider submits a complete package with all the necessary information.
- A tenant is considered approved once the unit passes inspection by the voucher administrator.

DISCRIMINATION AGAINST PEOPLE WITH HOUSING VOUCHERS IS ILLEGAL IN VIRGINIA!



IS IT ILLEGAL TO DISCRIMINATE AGAINST SOMEONE BECAUSE THEY USE A VOUCHER TO PAY THEIR RENT IN VIRGINIA?

Yes! It is illegal for a landlord to discriminate against you based on how you pay your rent. This is because "source of funds" is one of the protected identities included in Virginia's fair housing law.

It is generally illegal for a housing provider to discriminate against you because you use a housing voucher, but there are some exceptions to protections for housing voucher holders under Virginia's fair housing law. For more information, you can check out [this helpful guidance](#) issued by Virginia's Real Estate and Fair Housing Boards in April 2021.

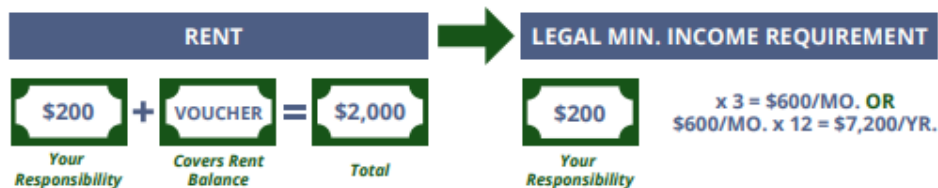
WHAT DOES ILLEGAL DISCRIMINATION TOWARDS PEOPLE WITH HOUSING VOUCHERS LOOK LIKE?

Some common examples include:

- A landlord telling you that they won't accept vouchers;
- Advertisements that state "no Section 8 accepted" or "we do not accept vouchers";
- A landlord charges a higher rent or security deposit because you pay with a voucher or subsidy;
- A property manager refuses to fill out and submit the Request for Tenancy Approval (RFTA) packet to your local Housing Authority; or
- A housing provider has a minimum income requirement that would disqualify any voucher holder's application. For example, requiring applicants to make \$100,000 per year would likely automatically disqualify any applications from voucher holders.

HOW DO MINIMUM INCOME REQUIREMENTS APPLY TO PEOPLE WITH HOUSING VOUCHERS?

Many landlords require applicants to meet a minimum income requirement. Often an applicant must make 3 times the amount of monthly rent. If you are using a voucher to pay part of or all of your rent, a landlord can only require that you meet the income requirement for your portion of rent:



DISCRIMINATION AGAINST PEOPLE WITH HOUSING VOUCHERS IS ILLEGAL IN VIRGINIA!



WHAT OTHER TYPES OF HOUSING DISCRIMINATION ARE ILLEGAL IN VIRGINIA?

The federal Fair Housing Act makes it illegal nationwide to discriminate against someone in housing based on their race, color, national origin, religion, sex (including sexual orientation and gender identity), disability, and familial status (the presence of children in the household under the age of 18). Virginia's fair housing law includes those seven identities and additionally makes it illegal to discriminate based on a person's source of funds, elderliness (55+), sexual orientation, gender identity, and military status. Some cities and counties within Virginia may make it illegal to discriminate in housing based on additional identities.

WHO SHOULD I CONTACT IF I BELIEVE I'VE BEEN DISCRIMINATED AGAINST IN HOUSING?

If you live in northern Virginia, you can make a housing discrimination complaint with the Equal Rights Center by calling 202-234-3062 or emailing info@equalrightscenter.org. Anyone who experiences housing discrimination in Virginia can also file a complaint with the [Virginia Fair Housing Office](#) or, if you live in Fairfax County, with the [Fairfax County Office of Human Rights and Equity Programs](#).

HOW CAN THE ERC HELP?



Civil rights testing

Trained civil rights testers pose as potential buyers or borrowers to find out if and how discrimination is occurring.



Advocacy

Advocating on your behalf with a housing provider to address possible discrimination.



Fair housing complaint

Assisting you with filing a housing discrimination complaint with the [Virginia Fair Housing Office](#) or, if you live in Fairfax County, with the [Fairfax County Office of Human Rights and Equity Programs](#).

CONTACT US:



202-234-3062



info@equalrightscenter.org



equalrightscenter.org

The information contained in this publication is not legal advice and should not be construed as such. For legal advice, please contact an attorney.



In accordance with § 2.2-4002.1 of the Code of Virginia, this guidance document conforms to the definition of a guidance document in § 2.2-4101.

Guidance Document

HOUSING DISCRIMINATION ON THE BASIS OF SOURCE OF FUNDS

ISSUED BY:	Virginia Real Estate Board
EFFECTIVE DATE:	April 16, 2021

As a means of providing information or guidance of general applicability to staff and the public, the Real Estate Board and Fair Housing Board issue this guidance document to interpret the requirements of 18 VAC 135-50 (Fair Housing Regulations).

The purpose of this guidance document is to address issues regarding housing discrimination based on lawful "source of funds," particularly what actions or inactions by housing providers may or may not constitute unlawful discrimination under the Virginia Fair Housing Law.

Introduction

The Virginia Real Estate and Fair Housing Boards ("Boards"), through the Virginia Fair Housing Office ("VFHO"), are jointly responsible for enforcing the Virginia Fair Housing Law (the "VFHL"), which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, elderliness, familial status, national origin, source of funds, sexual orientation, gender identity, or status as a veteran.¹

As of July 1, 2020, VFHO is responsible for investigating allegations of discrimination on the basis of the source of funds of a buyer or renter of housing. Because the "source of funds" protected class is new to Virginia, many questions have been raised regarding what may constitute this type of discrimination.

This guidance provides technical assistance regarding what actions, behaviors, policies, and procedures likely do and do not violate the Virginia Fair Housing Law's prohibition on discrimination on the basis of one's lawful source of funds.

Background

House Bill 6, sponsored by Delegate Jeffrey Bourne, passed the 2020 Session of the General Assembly and was signed into law by Governor Ralph Northam on March 27, 2020.² The law defines "source of funds" as:

any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.³

¹ Va. Code §§ 36-96.1, et seq.

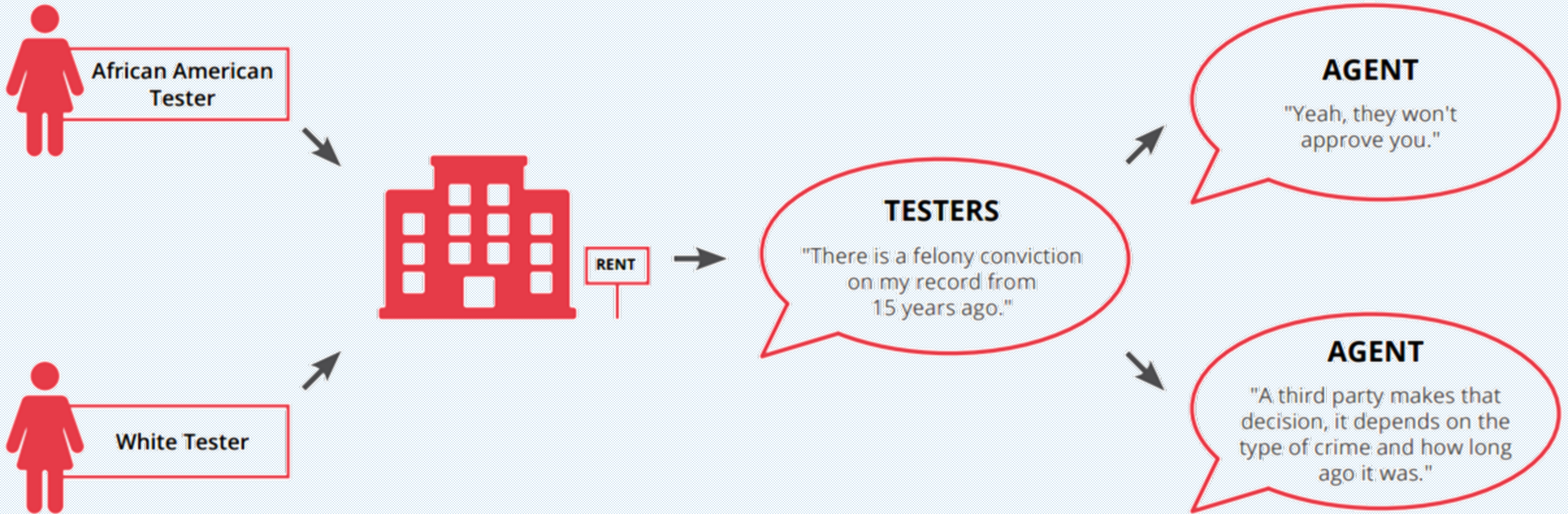
² 2020 Acts Ch. 477.

³ Va. Code § 36-96.1:1.



Criminal Record Screenings

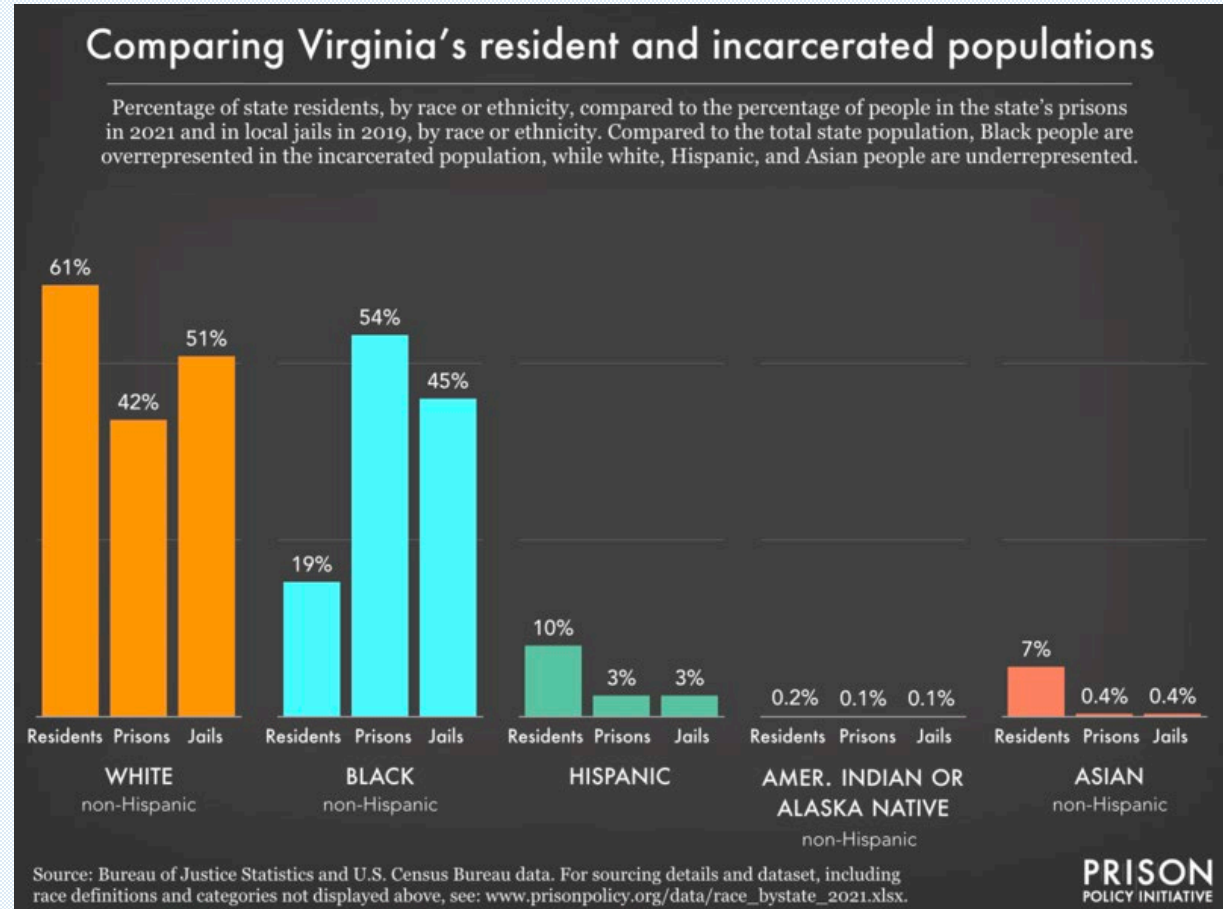
Unlocking Discrimination



Race and Criminal Record



People of color are arrested, convicted, and incarcerated at much higher rates than white people.



Graphic from the [Prison Policy Initiative](#)

HUD Guidance on Criminal Record Screenings



- Illegal for housing providers to consider arrest records
- Felony and conviction bans are illegal
- Housing providers must make an individualized assessment of a person's criminal record

Example of a Blanket Ban



Have you or any other applicant or occupant ever been  convicted of a felony?

Yes	▼
No	
Yes	

We are unable to lease to anyone who has been convicted of a felony. Should you have any questions, please contact the leasing office for this community.

Save

Save & Continue

HUD Guidance on Criminal Record Screenings



Housing providers should consider the following information:

- What crime was committed
- When the crime occurred
- How long it's been since the crime occurred
- The applicant's age when they committed the crime
- Any changes in the applicant's situation since the crime occurred

Scenario

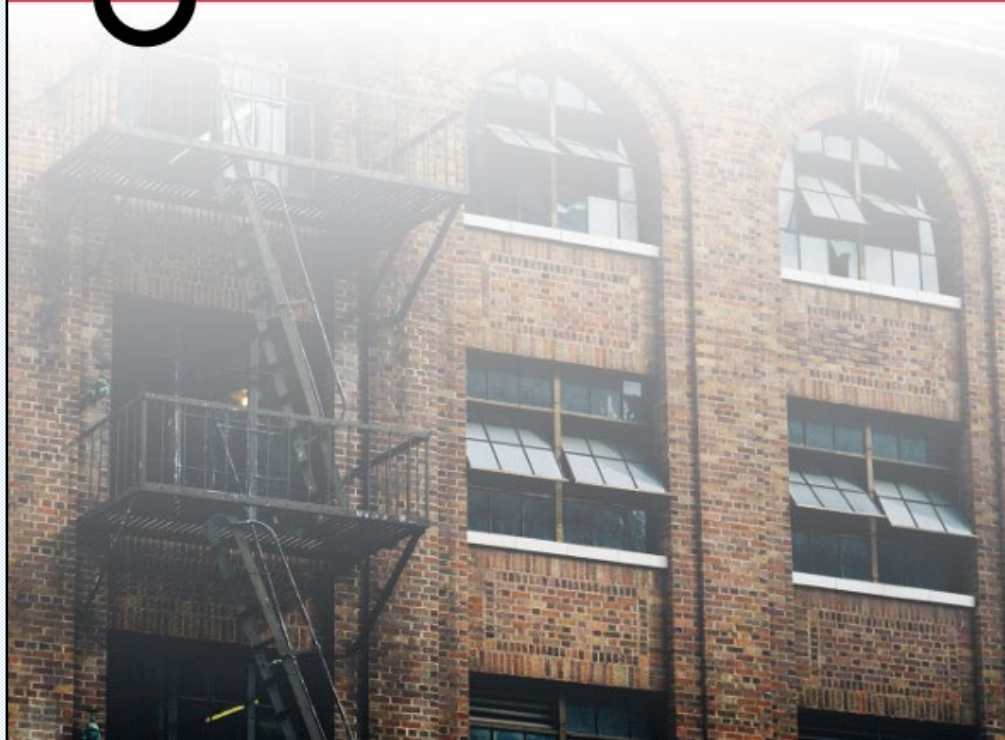
A person's application is denied due to a felony being on their record. The building says they don't allow anyone with felonies.





CRIMINAL RECORDS SCREENING AND FAIR HOUSING

A Toolkit for Consumers





Fair Housing Rights for People with Disabilities: Reasonable Accommodations



Definition of Disability

- A physical or mental impairment which substantially limits one or more major life activities, or
- A record of having such an impairment, or
- Being regarded as having such an impairment

Reasonable Accommodations



Changes in rules, policies, practices, or services that give a person with a disability equal opportunity to use and enjoy a dwelling



Examples of Reasonable Accommodations



- Emotional support animals in a building with a “no pets” policy
- Assigning a reserved accessible parking space
- A transfer to a more accessible unit

Examples of Reasonable Accommodations



- An extension to a voucher so a voucher holder can have more time to find housing
- Changing the date of rent payment to match when a person receives their monthly disability income
- Not considering a criminal conviction directly related to a person's disability

Making Reasonable Accommodation Requests



- A request can be made verbally or in writing
- A housing provider can ask an individual to verify that they have a disability only if the disability isn't obvious
- A housing provider can ask an individual to verify their request is related to their disability only if the link isn't obvious

Service and Assistance Animals

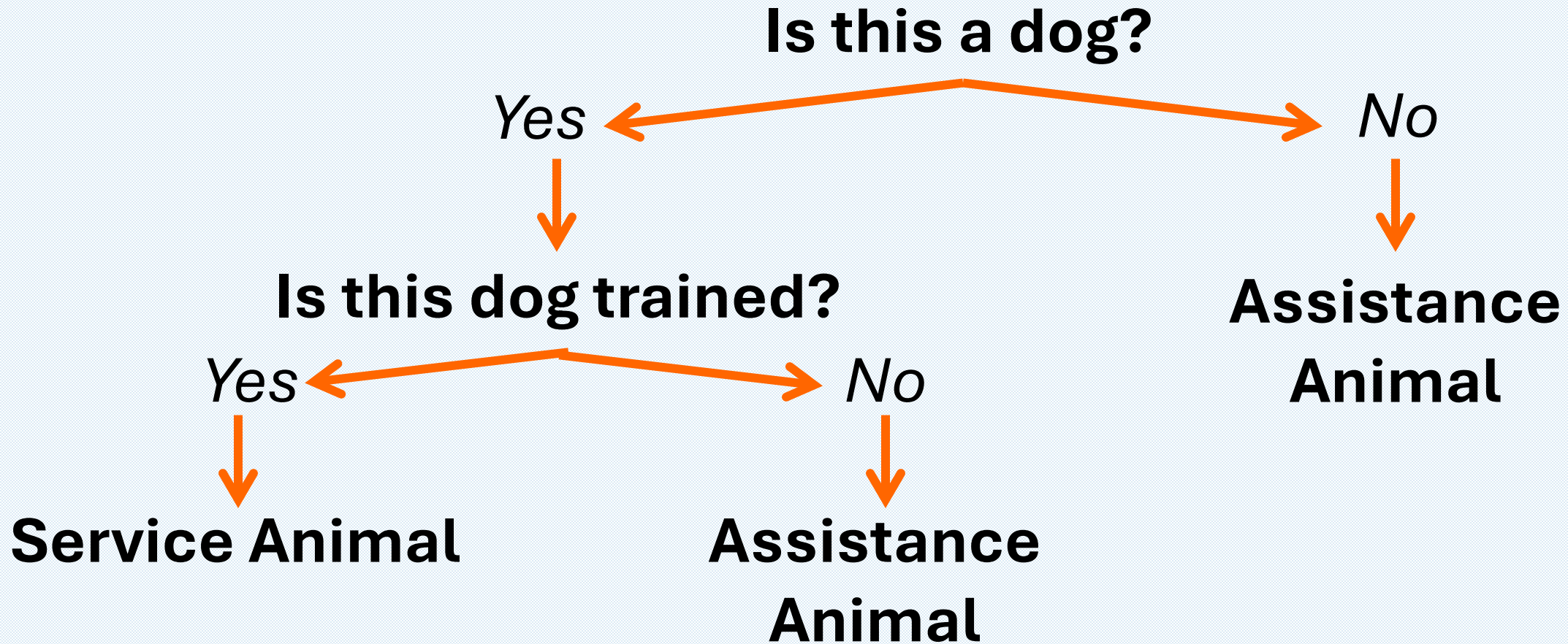


Service animals are dogs* trained to provide specific task(s) related to a person's disability.

Assistance animals can be:

- service animals
- other animals that do work, perform tasks, or provide assistance related to a person's disability,
- Animals that provide therapeutic emotional support for individuals with disabilities (emotional support animal, comfort animal, support animal)

Service and Assistance Animals



Service and Assistance Animals



Is this a dog?

Yes

No

Is this dog trained?

Yes

No

**Assistance
Animal
Housing**

**Service Animal
Housing &
Businesses**

**Assistance
Animal
Housing**

Rights and Responsibilities: Housing Providers



Housing providers **can't**

- Apply a “no pet” policy to assistance animals
- Charge a pet fee to an assistance animal
- Charge an additional security deposit or collect other fees to guard against potential property damage

Rights and Responsibilities: Housing Providers



Housing providers **can't** require that an assistance animal

- Be a certain breed
- Be under a certain weight or size
- Show formal training or certification
- Wear a harness or vest

Rights and Responsibilities: Handler



- Animals must follow the behavior outlined in standard pet policies (leash rules, waste pickup, etc.)
- Animals must not pose a threat to other residents or property
- Residents must pay for any damage caused by the service or assistance animal
- The animal must be up-to-date on its vaccinations in accordance with state and local laws.

Who can verify a disability or need for an accommodation?

- A doctor or medical professional
- A therapist
- A caseworker
- A member of a peer support group
- A non-medical service agency
- Reliable third party



THIRD-PARTY VERIFICATION TEMPLATE



Verifying the need for a reasonable accommodation or modification

Under the Fair Housing Act, an accommodation is a change in rule, policy, practice, or service that will provide a person with a disability equal opportunity to use and enjoy their home. A modification is generally a structural change to a unit, common area, and/or a public area. Modifications improve the functionality of a space for a person with a disability. Various sources can provide verification of a person's need for an accommodation or modification, including doctors, nurses, caseworkers, school administrators, and advocates. Verification does not require the disclosure of detailed medical information. For more information, visit www.equalrightscenter.org. As a doctor, therapist, caseworker, or other advocate for a resident with a disability, your written verification can help a resident secure a reasonable accommodation or modification.

Dear [Manager/Name of Housing Provider]:

I am [insert your professional title or relationship to individual making the reasonable accommodation/modification request] and have knowledge about the disability of [name of resident]. I verify that they meet the definition of a person with a disability under the Fair Housing Act.

I understand that they recently made a reasonable [accommodation/modification] request, and can further verify that they have a disability-related need for [description of reasonable accommodation/modification]. This [accommodation/modification] will alleviate [description of disability-related symptoms] of their disability.

Sincerely,

[Name]

[Title]

[Address]

[Telephone Number]



Scenario



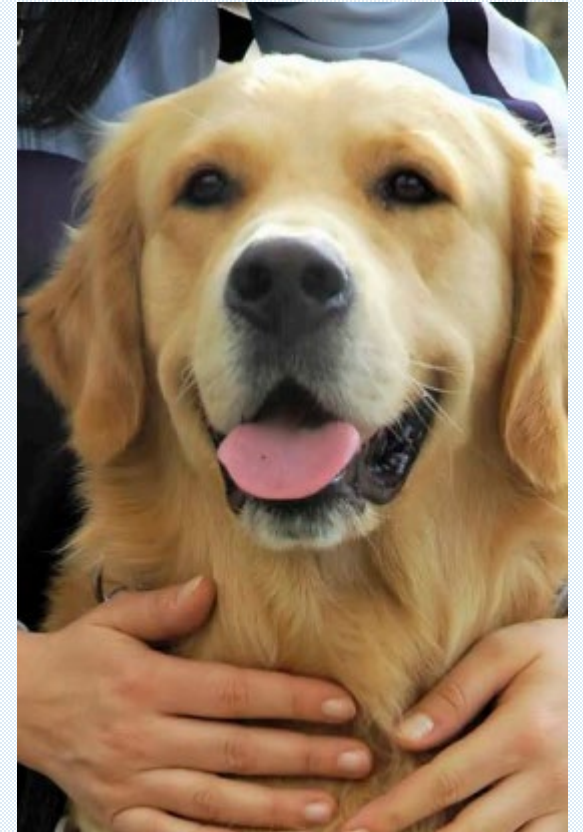
A wheelchair user requests an accessible parking space. The landlord approves their request, but says they don't have the money to pay for it. The tenant must cover the costs of the curb cut and pay for the sign to be installed.



Scenario



A person with PTSD has an emotional support dog. The landlord says they will allow the pet, but the tenant will have to pay the \$300 pet fee and the dog can't weigh over 25 pounds.



Scenario



A tenant with depression has a cat as an emotional support animal. What information do they need to submit to the landlord for their cat?



Scenario



An applicant with a psychiatric disability is denied housing due to a conviction for property damage several years ago. The applicant requests a reasonable accommodation because they have since received medical treatment that time and have had no similar incidents.

The landlord denies the request because they claim they only have to consider reasonable accommodation requests from current tenants. They reject the applicant for criminal record.

DENIED

ERC Resources for People with Disabilities



MAKING HOME ACCESSIBLE



A TOOLKIT FOR REASONABLE ACCOMMODATIONS AND MODIFICATIONS

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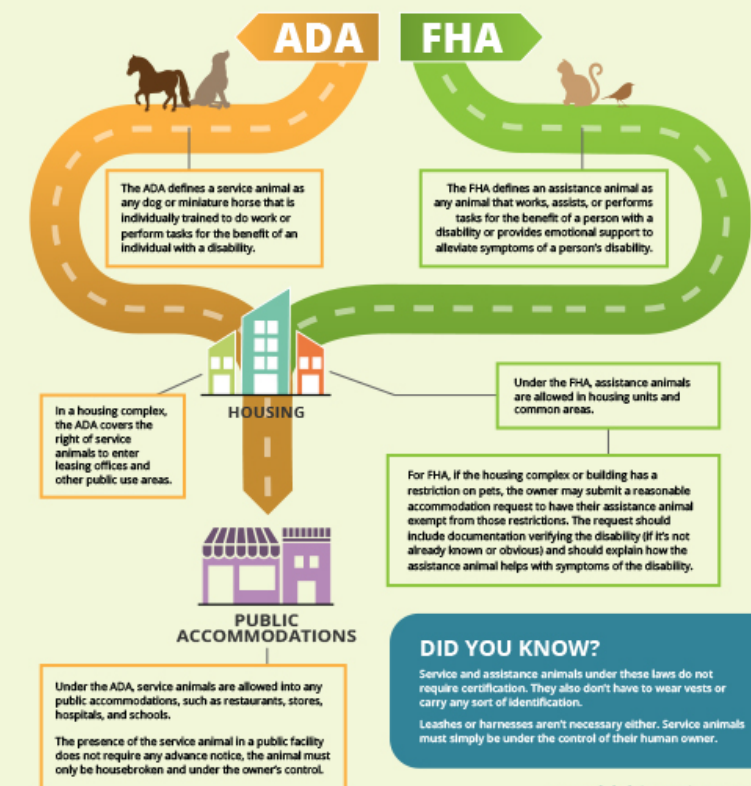
Sincerely,
[Name]
[Title]
[Address]
[Telephone Number]



The work that provided the basis for this publication was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Federal Government.

NAVIGATING LIFE WITH YOUR SERVICE OR ASSISTANCE ANIMAL

The Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA) provide protections and guidance for people with disabilities who use service or assistance animals.



ERC Resources for Housing Providers



Fair Housing Help Desk for Housing Providers

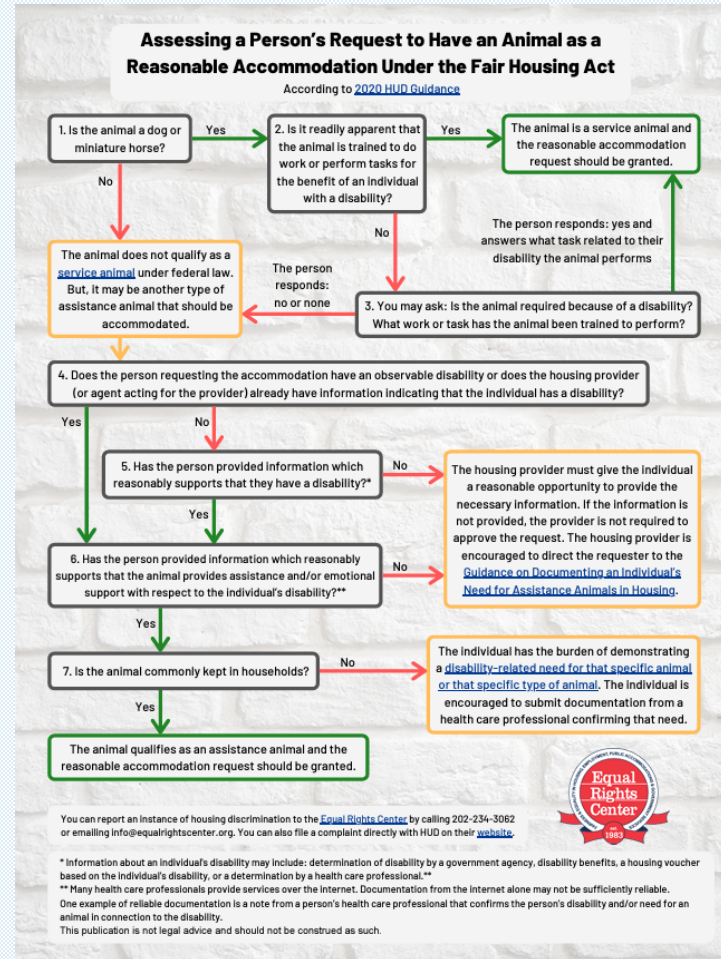
Frequently Asked Questions About Reasonable Accommodations and Reasonable Modifications



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Assistance Animals



Assessing Requests for Assistance Animals





How to Report Housing Discrimination



What Can You Do?

Anyone who believes that they have experienced discrimination in housing can file a fair housing complaint.

- The Equal Rights Center
- HUD
- Virginia Fair Housing Office
- Arlington County Office of Human Rights

ERC Services



- Advocacy with a housing provider to address possible discrimination
- Assist people with disabilities with submitting reasonable accommodation or reasonable modification requests to housing providers

ERC Services



- Assistance with submitting a housing discrimination complaint with the Virginia Fair Housing Office or HUD and serving as a person's representative/advocate
- Civil rights testing
- Accessibility site surveys



What Can You Do?

Document your client's experience:

- Date and time
- Who you/your client spoke to or contacted
- Summary of what happened
- Keep copies of anything submitted in writing

Filing a Complaint with the ERC



- Call 202-234-3062
- Email info@equalrightscenter.org

Halle Ostoyich – Intake Coordinator

hostoyich@equalrightscenter.org

202-370-3224

Questions?



Susie McClannahan

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202-370-3229

Please fill out the ERC's training evaluation!

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