

# Fair Housing Guide

Iowa Civil Rights Commission

## **Iowa Civil Rights Commission**

**211 East Maple Street, 2nd Floor**

**Des Moines, IA 50309**

**515-281-4121, 1-800-457-4416**

**515-242-5840 FAX**

**[www.state.ia.us/government/crc](http://www.state.ia.us/government/crc)**

# Fair Housing Guide

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## INTRODUCTION

Fair housing means that all people have the right to be considered for the housing of their choice in the neighborhood they choose and can afford. Fair housing laws do not tell landlords and real estate agents how to run their businesses. But they do tell landlords and agents, "Don't treat people differently because of their race, color, religion, sex, national origin, creed, disability, or familial status."

Fair housing laws apply to all kinds of housing transactions including rentals, sales, leases, sub-leases, loans, appraisals, insurance, and zoning. Fair housing laws apply to all kinds of housing units, such as single family dwellings, large apartment complexes, retirement homes, rooms in private homes, mobile home parks, public housing developments, private condominiums and cooperatives, shelters for the homeless and group homes for persons with disabilities. Fair housing laws also apply to all owners, agents, and managers of real property regardless of the number of properties owned or managed.

Persons seeking housing and persons providing housing need to understand their rights and responsibilities under the fair housing laws. This booklet will explain the content of the fair housing laws by giving examples of situations that arise in housing transactions and by offering fair housing guidance. Commission staff is available to provide specific assistance and training.

## **The Mission of the Iowa Civil Rights Commission**

The vision of the Iowa Civil Rights Commission is "a state where all people are free from discrimination." Our mission is "enforcing civil rights through compliance, advocacy, and education."

The Commission is an administrative agency created to enforce the Iowa Civil Rights Act of 1965, Iowa's anti-discrimination law.

The Commission currently fights discrimination four ways:

- investigating and resolving individual discrimination complaints
- educating the public regarding anti-discrimination law and the value of diversity
- helping communities form diversity appreciation teams or organizations to form study circles to address discrimination and diversity issues locally.
- conducting tests to determine the nature and extent of discrimination in Iowa

In the area of housing, the Commission contracts with the U.S. Department of Housing and Urban Development to investigate and resolve fair housing complaints. The Commission also collaborates with Iowa's 22 local human/civil rights agencies in case processing and in educating the public.

The Commission has a paid staff of 38 and over 100 volunteers. Volunteers help in all activities. Volunteers can work in Commission offices in Des Moines or in their own offices or homes. Anyone interested in volunteering should contact the Iowa Civil Rights Commission at 515-281-4121 or 1-800-457-4416.

## Refusal to Rent or Sell

Fair housing laws prohibit owners, or persons acting for owners, from refusing to rent or sell any real property because of the protected personal characteristics of the applicant or prospective buyer. These protected personal characteristics are race, color, religion, sex, national origin, physical and mental disability or familial status/presence of children. *Iowa Code Section 216.8(1)*

Under the fair housing laws, it is acceptable to ask all applicants to fill out applications and to provide references. Landlords want tenants who are financially responsible, who will abide by building rules, who will take care of the property, and who do not disturb others. It is acceptable to rent to the best applicant using objective criteria, such as income, credit history and landlord references. But it is not acceptable, under fair housing laws, for owners or their agents to use any of the protected personal characteristics as a factor in selection.

Fair housing is good business. A landlord who uses standard, objective tenant selection criteria with every applicant is more likely to select good tenants, have fewer tenant problems, and be in a better position to defend their decision-making when faced with a discrimination complaint.

### **For example:**

- Landlords must be careful not to treat applicants differently because of a protected personal characteristic. Telling white applicants about other available properties and not telling African-American applicants is different treatment based on race.
- Landlords who check references just on applicants who have children and do not bother to check references on families without children are treating applicants differently because of familial status.
- Landlords who refuse to accept Social Security, disability pay, alimony, child support, or AFDC as verifiable income may be discriminating against persons with disabilities, women, and families with children.
- Landlords may not have a policy of not renting to families with children (unless they meet the criteria for being designated as housing for older persons).
- Landlords may not refuse to rent to someone who has AIDS/HIV, or any other physical or mental disability, which does not present a direct threat to the health or safety of others.

- Landlords may not refuse to rent to someone because their spouse or roommate is of a different race or national origin.
- Landlords should not base their judgments of people on stereotypes, such as "All \_\_\_\_\_ people are lazy, ...or dishonest, ...or involved in drugs."
- Real estate agents may not "steer" a prospective buyer to a particular neighborhood because of the race or national origin of the buyer. The agent should not preselect the area for the buyer based on any of the protected personal characteristics.

## **Terms and Conditions**

**Not only is it unlawful to refuse to rent to someone because of their protected personal characteristics, it is also unlawful for owners or their agents to treat tenants differently in the terms, services or facilities they provide. *Iowa Code Section 216.8(2)***

**Landlords cannot change or offer different terms and conditions of rental because the tenant has children, or because of the tenant's race, color, religion, sex, national origin, or disability.**

### **For example:**

- Landlords may not require additional rent or deposit from families with children or from persons with disabilities.
- Landlords may not base the rent or deposit on the number of individuals in the unit, unless the landlord pays the utilities and there is a reasonable correlation between the utilities and the charge for each additional person.
- Landlords may not offer "move in specials" to white applicants while failing to offer the same specials to Latino applicants, or to older persons but not to families.
- Landlords may not restrict families to first floor units or units in the back of the building.
- Landlords may not provide services to some tenants but not to others, based on protected personal characteristics, such as promptly responding to service requests from male tenants but ignoring service requests from female tenants.
- Landlords may not harass tenants or allow others to harass tenants because of protected personal characteristics, such as race, or sex, or disability, or national origin.

# Advertising

Fair housing laws prohibit owners, or their agents, from directly or indirectly advertising, or in any other manner, indicating or publicizing that the purchase, rental or lease of any real property by persons with a protected personal characteristic is unwelcome, objectionable, not acceptable or not solicited. *Iowa Code Section 216.8(3)*

Under the fair housing laws, landlords cannot advertise that people with children or people of a particular race, national origin, or sex are not welcome in their units. Landlords should never describe the particular people they want as tenants or buyers, such as "Christian family," "employed person," or "single lady." Landlords should, instead, describe the property for sale or rent. Describing the property, such as "three bedrooms, two baths, remodeled kitchen, attached garage;" or describing the property's amenities, such as "swimming pool, playground, and tennis courts;" or describing its location, such as "close to shopping and schools, on the bus line," is perfectly acceptable.

## For example:

- Advertising does not refer just to newspaper advertisements. It also includes bulletin board notices, shoppers and newsletters, and even verbal statements by landlords or their agents.
- Landlords may advertise that a unit is handicapped accessible, if it is.
- Roommates may advertise for roommates of a particular sex if shared living space is involved.
- Landlords may not discourage a person because of a protected personal characteristic from considering the unit. Landlords may answer factual questions about the property, but should not make value judgments for others, such as "This isn't a good place for a family," or, "You probably wouldn't be happy here." Landlords should allow the property-seeker to decide whether the property is suitable for their needs. Landlords who try to discourage certain property-seekers because of a protected personal characteristic by pointing out the negative features of the unit or neighborhood may be violating the fair housing laws.

## Visitors

Fair housing laws prohibit owners or their agents from refusing to lease or sell to someone or from treating their tenants differently because of the protected characteristics of their visitors, friends, guests or relatives. Protected characteristics in this section include race, color, creed, religion, sex, disability, age, and national origin. *Iowa Code Section 216.8(4)*

Landlords may establish reasonable rules of conduct expected of all tenants and guests of tenants, but those rules should be enforced equally. Decisions about disciplinary or legal action against a tenant resulting from a breach of rules by a tenant or their guests should not be based on any protected personal characteristics.

### For example:

- Landlords may not refuse to rent to someone because they have a friend or relative who has a disability.
- Landlords may not evict a tenant because they have a visitor or guest who is of a different race or nationality.
- Landlords may not bar visitors who have children.

## Blockbusting

"A person shall not induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, sex, religion, national origin, disability or familial status." *Iowa Code 216.8A(1)*

### For example:

- A real estate agent may not tell a person to hurry up and sell their house because the neighborhood is "turning."

## Denying Availability

Fair housing law prohibits owners or their agents from representing to persons with a protected personal characteristic that a dwelling is not available for rent, sale or inspection when the dwelling is available. *Iowa Code Section 216.8A(2)*

### For example:

- Landlords may not tell a person with children that an apartment building is for senior citizens when the building does not meet HUD criteria for being designated housing for older persons.
- Landlords may not tell an Asian American applicant, or an applicant of any protected class, that the unit has already been rented when in fact it is still available.

## Occupancy Standards

Landlords may not set maximum occupancy standards stricter than their local city housing codes. If a city does not have an occupancy code, the current guideline from the Department of Housing and Urban Development is two people per average-sized bedroom. For example, a one-bedroom apartment could accommodate two adults or a parent and one child; a two-bedroom apartment could accommodate four persons (four adults, a parent with three children or a couple with two children). The standard is based on "person," not on whether the person is an adult or child.

### For example:

- Landlords may not set a limit on how many persons can occupy a unit which is more restrictive than the above standards, such as a limit of four persons in a three-bedroom apartment.
- Landlords may not limit a one bedroom apartment to one person, if the sleeping room is of average size.
- Landlords may limit a one-room efficiency apartment to one person.
- Mobile home parks may not set a limit of a certain number of persons per lot; the occupancy standard should be based on the number and size of the bedrooms in the mobile home.

## **Reasonable Modifications: Physical and Mental Disability**

Fair housing laws prohibit discrimination against persons with a mental or physical disability. A disability is defined as an "impairment which substantially limits a major life activity, having a record of such an impairment, or being regarded as having such an impairment." *Iowa Code Sections 216.8 and 216.2(5)*

Fair housing laws require owners and their agents to allow persons with disabilities to make reasonable modifications of existing premises if necessary to occupy and have full use of the premises. The modifications are to be done at the tenant's expense. A landlord may, where reasonable to do so, condition permission for modification on the renter's agreement to restore the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord should not require that the premises be restored to original condition unless the modification is one which will interfere with the landlord's or the next tenant's use and enjoyment of the premises.

The landlord may **not** require an additional deposit from a person with a disability. If the modifications are extensive and restoration will be necessary, the landlord may negotiate payment by the tenant into an interest-bearing escrow account to ensure that funds are available for the restoration of the unit when the tenancy ends.

### **Examples of modification include:**

- a ramp for entrance to the building
- installation of grab bars in the bathroom
- relocation of switches or controls so they can be reached by persons who use a wheelchair
- widening of a doorway so a wheelchair can fit through
- placement of a mailbox in an accessible location
- installation of lever doorknobs to replace round doorknobs

For new multifamily buildings being designed and constructed after January 1, 1992, there are standards of design and construction that must be followed to make the building usable by persons with disabilities. *Iowa Code Section 216.8A(3)(c)*

## **Reasonable Accommodations: Physical or Mental Disability**

Fair housing laws require owners and their agents to make reasonable accommodations in their rules, policies, practices, or services, when the accommodations are necessary in order for persons with disabilities to use and enjoy the premises. *Iowa Code Section 216.8A(3)(c)(2)*

### **Some examples of reasonable accommodations:**

- providing an adequate number of handicapped parking spaces
- allowing a person with a disability to have a service aid animal (such as a Seeing Eye dog) notwithstanding a "no pets" policy. Service aid animals are specially trained and are not considered to be pets
- modification of rental criteria requiring a reference from a landlord, when a person moving from a hospital or institutional setting may not have such a reference. Landlords should allow the person with a disability to submit other kinds of references
- allowing the tenant with a disability to pay rent by mail rather than going to the office in person, if it is difficult or impossible for the tenant to get to the office
- installation of a light signal connected to the doorbell for a tenant with a hearing impairment

## **Housing for Older Persons**

Housing for older persons is exempt from prohibitions against discrimination because of familial status if the property meets one of these criteria:

- Housing designed for and occupied solely by persons age 62 years of age or older; **or,**
- Housing intended for occupancy by persons age 55 years of age or older, and at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older. The housing facility or community must publish and follow policies and procedures that demonstrate the intent to operate in this manner. The Department of Housing and Urban Development (HUD) should be contacted for information to meet these requirements.

These "housing for older persons" exemptions apply only to familial status, not to other protected personal characteristics.

## Real Estate Related Transactions

A person whose business includes engaging in real estate related transactions shall not discriminate against a person in making a residential real estate related transaction or in the terms or conditions of such a transaction because of race, color, creed, sex, religion, national origin, disability or familial status.

*Iowa Code Section 216.8A(4)*

A residential real estate related transaction includes:

- to make or purchase loans or provide financial assistance to purchase, construct, improve, repair, or maintain a dwelling, or to secure residential real estate.
- to sell, broker, or appraise residential real estate.

In addition, a person shall not be discriminated against by denying access, membership or participation in a multiple-listing service, real estate brokers' organization or other organization relating to the business of selling or renting dwellings, because of protected personal characteristics.

## Questions and Answers

- Q. I would like to limit the people in my apartments to two adults and two children. Is there a problem with this?**
- A. *Yes. The general guideline is two persons per average-sized bedroom. You cannot specify the sex or age of these persons. In a two bedroom apartment, the tenants could be four adults, two adults and two children, or one adult and three children. In a three bedroom apartment, the occupancy standard would be six persons.*
- Q. I have always had older persons renting my apartments. Why can't I keep it that way? It would be very upsetting to my current tenants to have children in the building.**
- A. *You cannot rent just to older persons unless you meet the qualifications for being designated as housing for older persons (see page 9). You cannot choose particular tenants based on the preferences of your current tenants if those preferences are based on any of the protected personal characteristics.*
- Q. I have a woman who wants to rent my house. I'm afraid she won't be able to maintain the yard and make repairs. Do I have to rent to her?**
- A. *If she is an otherwise qualified tenant, you cannot refuse to rent to her because of her sex. Many women are fully capable of maintaining a property, or they may choose to hire someone to do it for them. You can always check references, as long as you check for women and men.*
- Q. I recently painted my apartments. Must I rent to people in wheelchairs who may bump into and mark the walls?**
- A. *Yes. You cannot deny housing to qualified persons with disabilities. If there is damage that would be considered more than normal wear and tear, you may recover the repair costs through the damage deposit.*
- Q. Can I refuse to rent to couples living together who are not married?**
- A. *State and federal laws do not include marital status as a protected personal characteristic, although some city ordinances do. Keep in mind that a legal marriage does not assure a stable relationship or desirable tenancy. It's better to check references of each adult applicant and rent to the applicants who are most qualified.*
- Q. Can I refuse to rent to people whose sexual orientation**

**offends me?**

A. *State and federal laws do not include sexual orientation as a protected personal characteristic, although some city ordinances do.*

**Q. The apartments on the upper floors of my building have balconies. I don't think they're a safe place for children to play. Can I refuse to rent these apartments to families with young children?**

A. *No. It is up to the parent who will be renting the apartment to decide if it is a suitable place for their family.*

**Q. Can I set a dollar amount of income required of my applicants?**

A. *Yes, you may establish a reasonable minimum income criteria necessary for the applicant to afford the unit. This standard should be applied uniformly to all applicants. Keep in mind that the income need not come from employment. Some persons have sufficient verifiable income from other sources that would enable them to qualify.*

**Q. A young man came to look at an apartment, and he did not appear to be well. I'm afraid he has AIDS. Do I have to rent to him?**

A. *Yes. If he is otherwise qualified, you cannot refuse to rent to him because you believe he might have AIDS. A person with AIDS, or who is believed to have AIDS, is protected under the law from discrimination on the basis of physical disability. Current medical information is that AIDS is not contagious through casual contact; there is no danger to you or your other tenants by renting to someone with AIDS.*

**Q. A family with several children came to look at an apartment. The children were noisy and unruly, yelling and running in the hallways, and the parents made no attempts to control the children's behavior. Do I have to rent to this family?**

A. *No, if you have reason to believe the family would not take care of the property or would not abide by the rules. Checking references may give you some additional information about the past and present behavior of this family. You cannot refuse to rent to a person just because they have children, but you may refuse to rent to a person that will not fulfill tenancy requirements.*

**Q. My landlord refuses to repair the furnace in the house I rent, and I never know if I will have heat or not. Can I just stop paying rent to force him to make the repairs?**

A. *This is not a fair housing issue, unless the landlord is targeting you in some way because of a protected personal characteristic. This is a situation covered by the Iowa Landlord Tenant Law, which specifies a procedure to follow to require the landlord to make<sup>12</sup> necessary repairs to the property.*

## **Resources Available**

Technical assistance for tenants and buyers and for landlords, sellers and real estate professionals is available from the Iowa Civil Rights Commission regarding Iowa law. If you think you may have been discriminated against, or if you are a landlord and have concerns on how to operate in a non-discriminatory manner, call the Commission.

**Iowa Civil Rights Commission**  
211 East Maple Street, 2nd Floor  
Des Moines, IA 50309-1858  
515-281-4121; 1-800-457-4416  
FAX 515-242-5840

The Commission can conduct fair housing training seminars for landlords, property managers and other interested persons at the Commission office in Des Moines or other locations around the state. Please call the Commission office if you would like to schedule a training session. Commission staff are also available as speakers for other events upon request.

The Commission has a variety of free publications and posters, as well as a lending library of videos on civil rights and non-discrimination topics. There is a \$10.00 processing fee and the cost of return mail for loan of a video. To request a speaker, publications, videos or seminar schedule, please call 515-281-4121 or 1-800-457-4416.

### **Federal Fair Housing Law**

You may also wish to contact the U.S. Dept. of Housing and Urban Development (HUD) for additional information about the federal fair housing laws.

**Great Plains Fair Housing Enforcement Center**  
**HUD Kansas City Regional Office - Region VII**  
Gateway Tower II, 400 State Avenue  
Kansas City, KS 66101-2406  
913-551-6993  
or  
800-743-5324

**U.S. Dept. of Housing and Urban Development (HUD)**  
Federal Building  
210 Walnut Street  
Des Moines, IA 50309  
515-284-4512  
515-284-4728 TDD

OR  
**U.S. Dept. of Housing and Urban Development**  
Office of Fair Housing and Equal Opportunity  
451 7th Street Southwest  
Washington, DC 20410  
1-800-424-8590

OR  
**HUD National Housing Hotline**  
1-800-669-9777, TDD 1-800-927-9275

### **City Ordinances**

Some cities in Iowa have local civil rights/human rights ordinances with additional provisions that you need to know. Some cities also have building code enforcement and housing ordinances regarding occupancy, rental inspections and registrations, which may impact on the operation of your rental properties. Contact your local city hall for information.

### **Landlord Tenant Law**

Although the Iowa Civil Rights Commission does not enforce Iowa Landlord Tenant Law, many housing problems are related to that law as well as civil rights laws. All tenants and landlords are encouraged to be fully informed of their legal rights and responsibilities. *A Guide to Landlord Tenant Law*, *Small Claims Court*, and *A Guide to Mobile Home Park Law in Iowa* are available for a fee from the Legal Services Corporation of Iowa. Some publications are also available in Spanish. Contact:

**Legal Services Corporation of Iowa**  
1111 9th Street  
Des Moines, IA 50309  
515-243-2151/ 1-800-532-1275 (voice and TDD)

In Des Moines, information and referral services on the rights and responsibilities of landlords and tenants, and written educational materials are available from:

**H.O.M.E., Inc.**  
(Home Opportunities Made Easy)  
1111 Ninth Street  
Des Moines, IA 50314  
515-243-1277

### **Professional Associations**

There are professional housing industry associations which may be of assistance in the management of your properties. These associations may have up-date information on the local housing market, be a source of networking, and provide an avenue for lobbying for legislative changes.

**Iowa Association of Realtors**  
1370 NW 114th Street  
Clive, IA 50325  
515-453-1064

**Iowa Manufactured Housing Association**  
1400 Dean Avenue  
Des Moines, IA 50316  
515-265-1497

The statewide association for landlords publishes a quarterly newsletter and has an annual convention. Persons who live where there is no local chapter may be members-at-large of the state association. The contact person for the state association is:

**Landlords of Iowa**  
% Barb Blow, Secretary  
320 Oak Park Circle  
Waterloo, IA 50701  
319-234-0654

## The Complaint Process

The Iowa Civil Rights Commission investigates and resolves complaints alleging discrimination in a number of areas, including housing. Any person who claims to be aggrieved, or hurt, by a discriminatory or unfair practice may file a complaint with the Commission. A telephone call to the Commission initiates free assistance with and information on filing a complaint.

A complaint, when it is received in writing at the Commission office, is considered to be legally-filed charge alleging that you were treated unfairly by a person or business in a situation covered by the Iowa Civil Rights Act. Once the complaint has been filed, the Commission will then take appropriate action to investigate or otherwise resolve the matter.

Under Iowa law, a complaint must be filed within 180 days of the alleged discriminatory incident. A housing complaint must be filed with HUD within one year of the alleged discriminatory incident. A complainant may also file an action in district court within two years of the alleged discriminatory incident.

Complaints may be filed in the areas of **employment, housing, credit, education, and public accommodations**. Protected personal characteristics, or the reason the person believes they were discriminated against, include **race, color, creed, national origin, religion, sex, physical disability, mental disability** (except credit), **age** (in employment and credit), **familial status** (in housing and credit) or **marital status** (in credit). A person may also file a complaint based on **retaliation** if they have suffered harm for trying to enforce their rights under the law.

All complaints filed with the Commission are confidential, but the complaint must be served on the person or business against whom the complaint is filed. There is no fee to file a complaint.

For information about your rights, or for assistance with filing a complaint, call:

Iowa Civil Rights Commission  
515-281-4121, or 1-800-457-4416