

Fair Housing for Landlords- Frequently Asked Questions

How selective may I be of my tenants?

You can be very selective as long as you use the same set of standards or requirements for all prospective tenants. These standards cannot be based upon race, color, sex, national origin, religion, disability, familial status, or status with respect to marriage and public assistance.

What should I look for in selecting a tenant?

The most important thing for you to determine is whether the tenant will be able to pay the rent in a regular, timely manner. You will also want to know that the tenant will not disturb other tenants and will keep the unit in a reasonable condition. These questions can often be answered by references from previous landlords, income verification and/or a credit bureau.

Does the law limit my advertising?

Yes. The law does not allow you to advertise a preference for a particular type of renter. The law prohibits advertising which would be illegal in practice. Thus, one cannot advertise for a particular race or for a family only.

I'm afraid that a woman won't be able to do gardening or repairs. Can I rent to men only?

No. If she is an otherwise qualified renter, 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 both men and women.

Can I set a dollar amount on the income I require of my tenants?

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.

Do I have to accept people on welfare or Social Security Insurance?

Yes. If their income is sufficient to meet your income requirements.

Under state or federal law, can an owner of an apartment complex refuse to rent any of its apartments to a family solely because the family includes a minor child?

No. The Supreme Court has ruled that refusing to rent to families with children is a class-based exclusionary practice which violates federal fair housing laws.

I would like to limit the number of people in my apartments to two adults and two children. Is there a problem with this?

HUD's current, general guideline is two persons per average-sized bedroom. In a two-bedroom unit, the tenants could be four adults, two adults and two children, or one adult and three children.

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.

You cannot rent just to older persons unless you meet the qualifications for being designated as housing for older persons (HOPA). You cannot choose particular tenants based on the preferences of your current tenants if those preferences are based on any of the protected classes.

I recently painted my apartments. Must I rent to people in wheelchairs who may bump into and mark the walls?

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 security deposit.

Can I refuse to rent to couples living together who are not married?

No, New Mexico state law includes marital status as a protected class.

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?

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, so there is no danger to you or your tenants by renting to someone with AIDS.

Can I refuse to rent to someone whose sexual orientation offends me?

No, The State of New Mexico includes sexual orientation as a protected class.

If an applicant or tenant requests an accommodation due to a disability, can a housing provider require documentation that he or she needs the accommodation?

A housing provider may ask an applicant or tenant to verify that they have a disability and need accommodation. The type of verification needed will depend on the specifics of the situation and may be provided by a doctor or other medical professional, a peer support group, or a service agency. However, the applicant or tenant is not required to tell the housing provider the specifics of their disability or to give the housing provider a full copy of their medical history. They only need to provide proof that they have a covered disability, that an accommodation is needed, and why the accommodation they are proposing will be helpful.