

# **Fair Housing & Vouchers**

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# Who are we?

FHAM (short for Fair Housing Alliance of Massachusetts) is a coalition of four fair housing advocacy agencies in Massachusetts. Our goal is to eliminate voucher discrimination across the state.

FHAM is proud to be funded by the EOHLC's Fair Housing Initiative, the U.S. Department of Housing and Urban Development, and other sources

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# Agenda

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Fair Housing Basics

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Tenant Screening: Discrimination?

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Reasonable Accommodations and Modifications

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Disability-Related Lease Violations & Direct Threat

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Common Landlord/Tenant Issues

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Resources/What to Do If Discrimination Occurs


# Services



- Advocacy for individuals experiencing discrimination
- Fair housing testing to investigate discrimination
- Training/information about fair housing
- Housing search assistance (MFHC)



# **Fair Housing Act & Massachusetts Anti-Discrimination Law**



Fair housing laws prohibit discrimination by housing providers (e.g., landlords, real estate companies, banks, housing authorities) due to a person's membership in a protected class.

\*Note that there are exemptions to some of these prohibitions.

# Protected Classes

Federal (and Massachusetts)	Massachusetts only
Race	Public Assistance (including Housing Subsidies)
Color	Marital Status
National Origin	Age
Religion	Sexual Orientation
Sex (includes Sexual Orientation, Gender Identity and Expression, & Sexual Harassment)	Gender Identity & Expression
Familial Status (e.g., Families with Minor Children, Pregnant People)	Military or Veteran Status
Disability (Physical or Mental)	Ancestry
	Genetic Information

# Types of DMH Vouchers

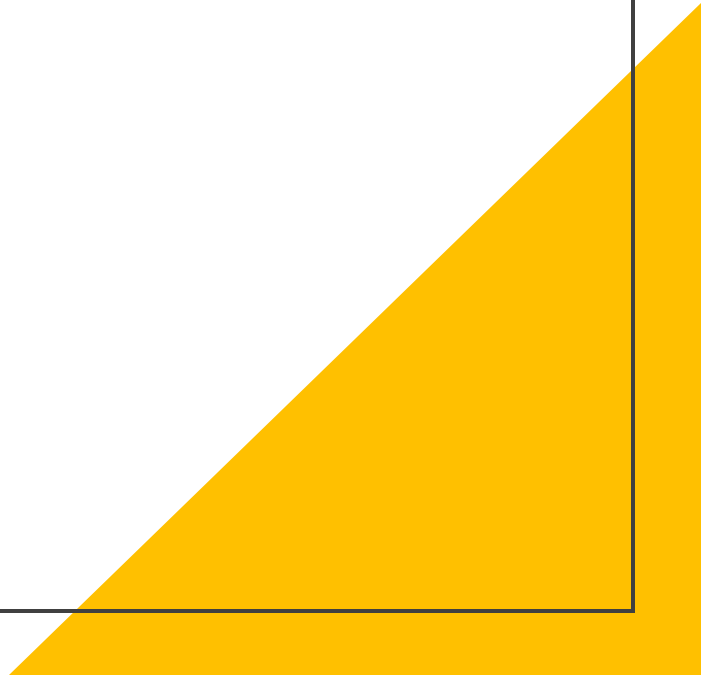
## Sponsor-based

- DMHRSP selects a Service Provider (Sponsor) that will receive the DMHRSP voucher and assigns the DMHRSP Area in which the voucher should be utilized.
- The Sponsor is responsible for locating an eligible unit.
- The Sponsor enters into the lease as the tenant.

## Tenant-based

- DMHRSP selects a Client who meets the eligibility requirements to receive the DMHRSP voucher.
- The Client is responsible for their own housing search and for choosing and submitting a potential unit that will meet the DMHRSP rental criteria.
- The Client signs the lease directly with the property owner and resides in the unit.

# Housing Search Experiences as a Voucher Holder





# “Qualified Renters Need Not Apply”

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- 86% of the people who said they had vouchers in study experienced discrimination
- Voucher holders need to contact TEN housing providers just to have the opportunity to only tour ONE unit (just tour, not even apply!)
- If a voucher holder wanted to tour 5 apartments, they would have to contact **50** agents or landlords.
- And that takes time!

*[Qualified Renters Need Not Apply](#): Race and Housing Voucher Discrimination in the Metropolitan Boston Rental Housing Market, study by Suffolk University Law School's Housing Discrimination Testing Program, released 2020.*

# Refusing To Take Vouchers

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- “The apartment wouldn’t pass inspection.”
- “Sorry, we can’t take vouchers at this time.” or “It isn’t a voucher-approved unit.”
- “We don’t like to work with that housing authority.”
- “I have had tenants like that before, and I can't take the risk.”
- “I don't want to take government programs.”
- “Sorry, there's no lead certificate.”
- “I’ll look for other apartments where you can use a voucher.”

**THIS IS ALL DISCRIMINATION!**

# Poor Customer Service or Discrimination?

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- Ghosted/no further communication after saying have a voucher or mentioning DMH-affiliation
- Demeanor/attitude change after voucher is mentioned
- Extensive or invasive questions about ability to pay rent, credit history, ages of children, whether criminal background

# Examples of Voucher Discrimination

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- Refusal to rent to someone because they receive Section 8 housing assistance.

Ex: "Sorry, this isn't a Section 8 unit."

- Refusal to rent to someone because a person receives some form of public assistance, including welfare, medical assistance, or rental assistance.

Ex: Landlord refuses to take RAFT to pay for the first month's rent.

Ex: Landlord refuses to consider SSDI as "income."

- Discriminating against a person because of the requirements of subsidy programs.

Ex: Landlord says, "Section 8 takes too long; I'll lose rent if I leave the unit vacant for the time it takes to get inspected."

- Using policies to exclude voucher holders

Ex. Requiring that income is 3x rent or first and last month's rent upfront

# Tenant Screening: Discrimination, Yes or No?

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Must be done in a non-discriminatory way

- Tenant-screening practices must be applied in the same way to everyone, but should also include case-by-case review:
  - Ensure information being relied on is accurate
  - Consider whether the negative information actually relates to the applicant's ability to be a good tenant
  - Consider mitigating circumstances
  - Consider reasonable accommodation requests
  - Applicant should be given a copy of the negative information that resulted in the denial so the applicant may refute it with the housing provider

Tenant-screening practices can disproportionately affect groups of people

# Credit Checks



Landlords frequently utilize credit checks in their tenant screening processes to evaluate an applicant's financial responsibility and reliability. However, these credit checks can disproportionately affect individuals with housing vouchers.



Some landlords use credit scores as a screening tool because they believe credit scores are predictive of tenants' ability to pay rent, but housing vouchers guarantee a large portion of rent, making credit scores less important for landlords, and detrimental for prospective tenants.



Housing providers can apply a credit check criteria but should not use the credit report to unfairly disadvantage voucher holders.

# CORI



Landlords must obtain written consent from the applicant before conducting a CORI check.



Landlords should consider factors such as the time elapsed since the offense, the nature of the crime, and evidence of rehabilitation.



If a landlord denies housing based on CORI information, they must provide the applicant with a copy of the CORI report and an opportunity to dispute or explain the findings or provide additional context.

# Rental History



Situations like prior evictions, records of unpaid rent or fees, and/or bad feedback from previous landlords can be reasons to reject a rental application



# Rental History – New Eviction Sealing Procedures

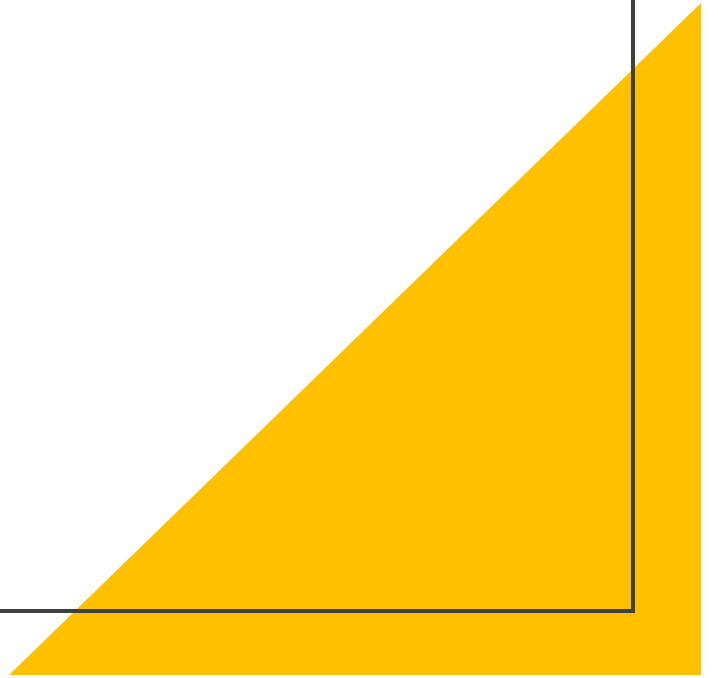
On August 6, 2024, the Governor signed into law The Affordable Homes Act

Section 52 provides that tenants can petition the court to seal their records at different times depending on the type of case and the outcome.

**These provisions go into effect on May 5, 2025**

Section 28 also provides that it is illegal for a consumer reporting agency to include information in their reports about sealed eviction record

# Reasonable Accommodations and Modifications



# Definition of Disability

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- Individuals with a physical or mental impairment that substantially limits one or more major life activities
  - For example: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working
- Individuals regarded as having such an impairment
- Individuals with a record of such an impairment

# Reasonable Accommodations and Reasonable Modification

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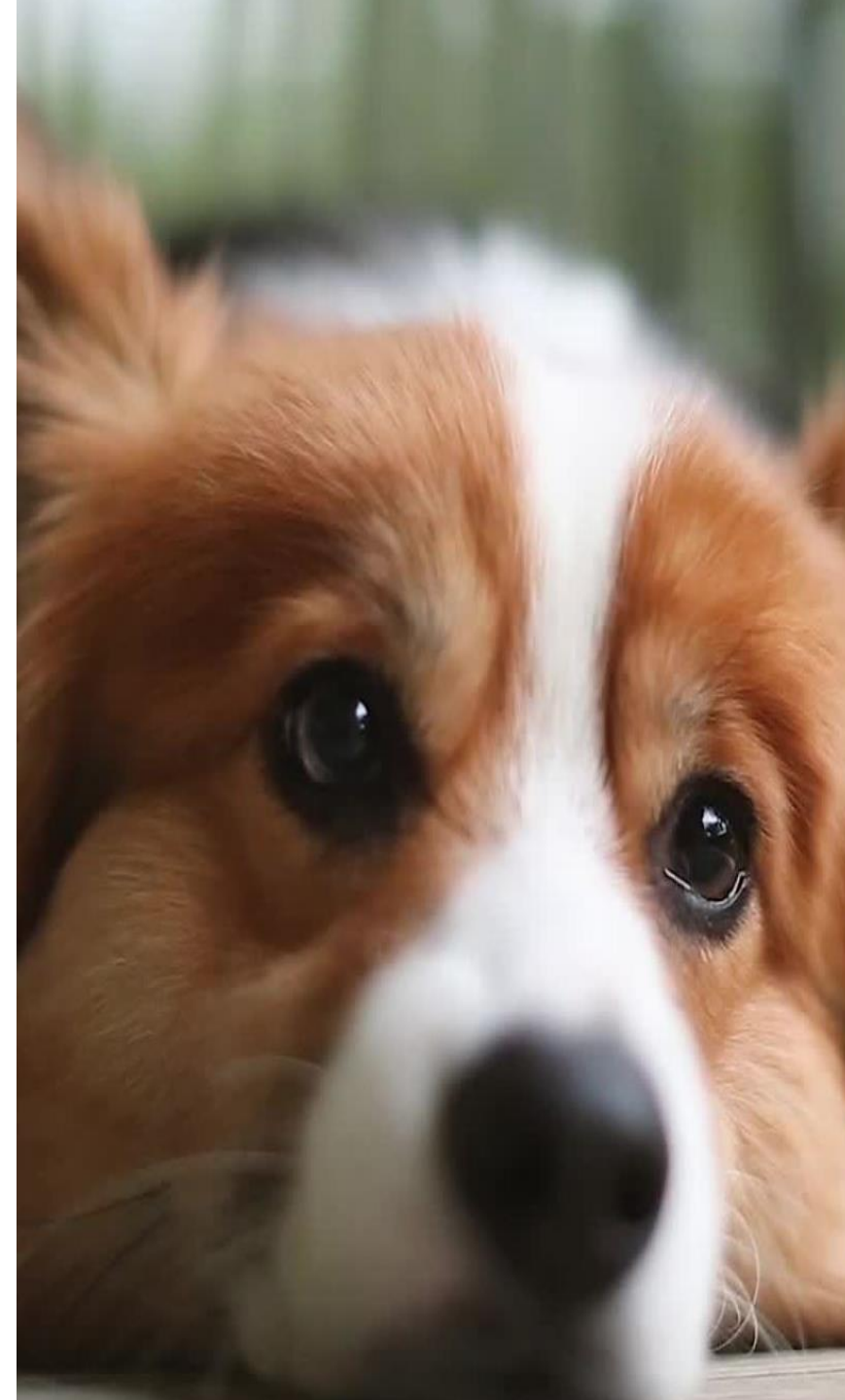
- **Reasonable Accommodations (RA)** are changes in rules, policies, practices, or services to give equal opportunity to housing.
- **Reasonable Modifications (RM)** are structural changes needed by a person with a disability to existing premises.

# Examples

Examples of RAs for voucher holders and program participants

# Assistance Animals

- Landlords and/or property owners should make exceptions to "no pet policies" for assistance animals
  - **Service animals** are specially trained and must be dogs
  - **Support animals** are not exclusively dogs, do not need training or "certification"
- Must be a nexus (a connection)
- Landlords and/or property owners cannot:
  - Impose breed restrictions on assistance animals (unless prior incident with the specific animal)
  - Charge fee or extra deposit



# Increase to the Maximum Allowable Rent

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- Some people may be entitled to an increase to the maximum allowable rent for a disability-related need.
- Examples:
  - A tenant may need an increase to remain living in an apartment in a community close to their providers and necessary services.
  - A tenant may need an increase to live in a physically accessible unit.

# Overlooking Tenant Screening Requirements

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- A tenant with disabilities may face housing denials based on landlords' screening and may request that an exception be made to screening requirements. For example:
  - Poor credit or no credit due to their disabilities – may ask that it be overlooked or may suggest a co-signer.
  - Criminal history - may ask for consideration of mitigating circumstances related to disability, other evidence of changed circumstances.
  - Poor rental history – may ask for consideration of mitigating circumstances related to prior evictions for cause or non-payment related to disability.



# Extra Time for Housing Search

- Many private units are not physically accessible for tenants with physical disabilities. Based on what type of unit it is, a landlord may not be obligated to make the requested modification or pay for it.
- Because of this, tenants who require certain modifications or accessibility accommodations may need additional time for their housing search to find a suitable unit that meets their needs.

# Additional Bedrooms

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- Some people might **need additional bedrooms in a unit based on disability-related need**
  - Ex: A family which typically qualifies for a 2 bedroom, needs 3 bedrooms for medical equipment
  - Ex: A child with disabilities affecting emotional state requires their own bedroom to regulate themselves

# **RAs for Lease Violations Based on Tenant Conduct**

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Sometimes a tenant's disability-related conduct can disrupt the living environment for other tenants or otherwise violate a lease.

Common examples include:

1. Excessive noise
2. Visitors/guests
3. Communication challenges
4. Property damage
5. Violence or threats of violence or harassment
6. Substance use
7. Hoarding

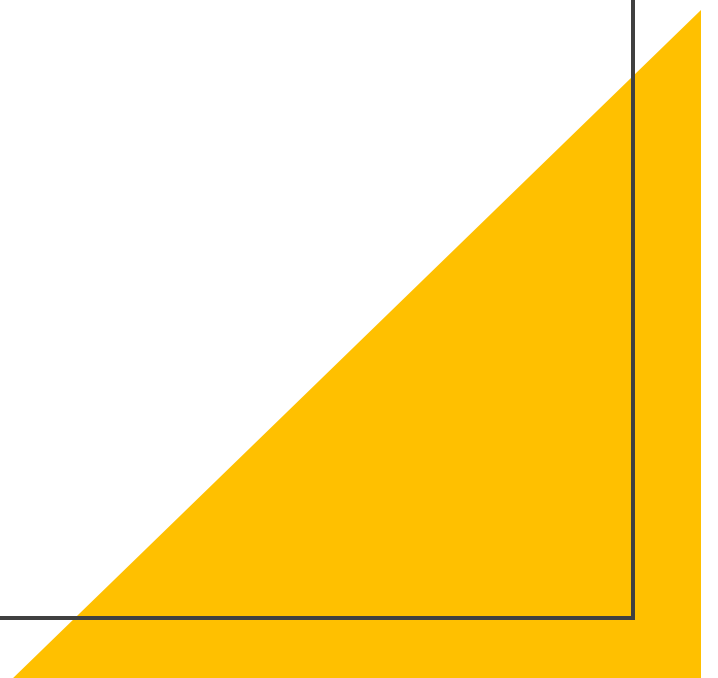
# Dismissing or Resolving Eviction Case

A tenant facing eviction due to an alleged lease violation may be entitled to an accommodation to not be evicted/be allowed to remain living in their apartment.

This may include:

- Dismissing the case or entering into a probationary agreement
- Probationary agreement may include a "be good" period of time where tenant agrees to comply with certain lease terms.
- Landlords often request direct communication between housing provider and medical providers or a generic requirement to "comply with treatment plans," but this should be discouraged/avoided.

# When Might a Tenant Not Be Entitled to An Accommodation?



# A program participant may not be entitled to an RA/RM when...

- A tenant does not have a disability (generally not relevant here)  
(Note: definition of person with disability excludes “current, illegal use of or addiction to a controlled substance”)
- A tenant does not provide verification of disability when requested (and the disability is not readily apparent)
- The request is not related to the disability
- The request is not “reasonable”:
  - Would impose **Undue Financial and Administrative Burden**
  - Would result in a **Fundamental Alteration**
  - Tenant poses a **Direct Threat** (and no accommodation can eliminate or significantly reduce threat)



# Undue Burden & Fundamental Alteration

## Undue Burden

- Whether something is an undue financial **and** administrative burden must be determined on a case-by-case basis
- Housing provider must evaluate various factors: cost of accommodation, financial resources of the provider, benefits to tenant, availability of alternative accommodations

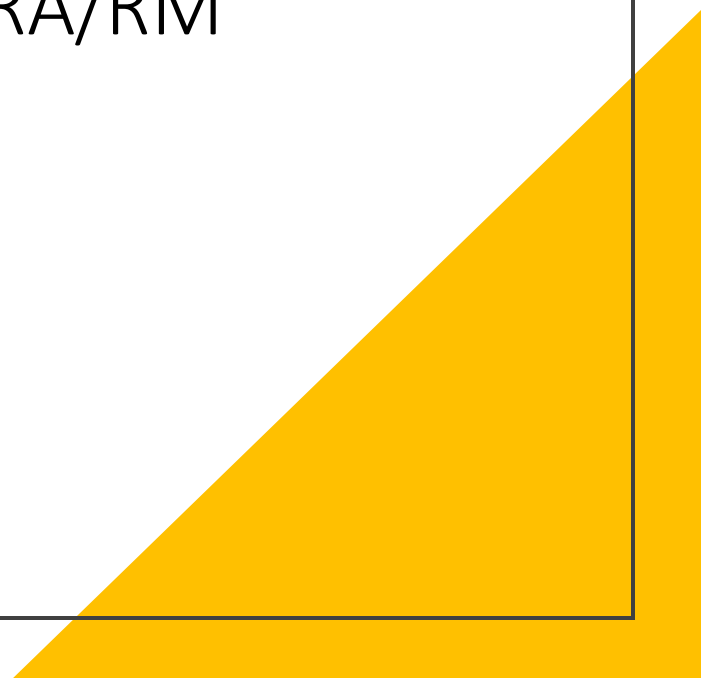


## Fundamental Alteration

- A modification that alters essential nature of provider's operations, for example: driving a tenant to store and helping with grocery shopping (see HUD/DOJ Joint Statement - link in resources slide)

# Process

How to request an RA/RM





# Determine who to Request RA/RM from

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To determine who to make request to, consider **who can make the change** to the rules or property

For example:

- Requests for reasonable modifications will almost always be made to the property owner
- Requests for reasonable accommodations can be made to a landlord, voucher administering agency, or both, depending on what is being requested

# Making the request

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- Must be made **by** the tenant or **on behalf of** the tenant
- Can be requested at any time
- The request **does not** need to:
  - Be made on a specific form
    - BUT, best practice is to put it in writing!
  - Use specific words like "reasonable accommodation" or "reasonable modification"
  - Reference the Fair Housing Act
- As long as the tenant communicates with their housing provider that they are requesting a structural change or an exception to a rule or policy due to their own or a household member's disability, they have requested an RA/RM.

# Is Disability Verification Required?

A housing provider *may* request verification of the disability/need for accommodation, unless the need for accommodation is “readily apparent.”

- Ex. A tenant who utilizes a wheelchair does not need to provide verification of disability for a request to install a ramp

When verification is requested, the verification should describe the disability, the accommodation being requested, and the connection between the accommodation and the disability.


Verification can be provided by any reliable third party who is in the position to know about the individual's disability (e.g., a doctor, therapist, social worker, caseworker, etc.).



## A medical verification letter **should**:

- Be on letterhead and signed by the provider
- Contain a brief statement of who the provider is to the client
- State the client is impacted by their disabilities & in what ways
- State the needed accommodation
- Explain how accommodation will enable client full use & enjoyment of dwelling

## A medical verification letter **should not**:

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- State a medical diagnosis
  - Invite housing providers to contact medical provider for more information
  - Simply state that the client would be harmed by being made homeless

# Sample RA with Medical Verification

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Dear [Housing Provider]:

I am a tenant at [ADDRESS]. Because of my disabilities, I need an assistance animal [a dog].

Please make an exception to your "no pets" policy to allow me to have a dog.

Please contact me to let me know your response to this request, including if you need anything further from me.

Sincerely,

Tenant

To Whom It May Concern:

I am [Tenant's] therapist. Ms. [Tenant] has a condition that makes it difficult for her to sleep and be around many people. Ms. [Tenant] needs a dog as a companion to enable her to feel safe in her home and in the common areas. Please make an exception to your "no pets" policy to allow Ms. [Tenant] to have a dog.

Sincerely,

Doctor Jones

# Direct Threat

- Housing provider may deny Reasonable Accommodation if tenant poses a “direct threat” to the health or safety of other individuals AND the threat cannot be eliminated or significantly reduced by reasonable accommodation
- Determination that tenant poses a direct threat:
- Must be based on an individualized assessment based on reliable, objective evidence
- Must consider three factors:
  - (1) the nature, duration, and severity of the risk of injury;
  - (2) the probability that injury will actually occur; and
  - (3) whether there are any reasonable accommodations that will eliminate the direct threat
- Must consider any intervening treatment
- Cannot be based on fear, speculation or stereotype about a particular disability or people with disabilities in general

# Interactive Process

- If a housing provider denies a Reasonable Accommodation as unreasonable, they should discuss whether there is an alternative accommodation that would meet the needs of the person with a disability without imposing an undue burden, direct threat or fundamentally altering the provider's operations
- This is called the “interactive process” or “interactive dialogue”
- If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it

# Discrimination Prohibited

Examples of discriminatory conduct by a housing provider:

- Failing to respond to an RA/RM request
  - No response = denial
- Unreasonable delay in responding to request
- Denying request without providing a valid reason
- Failing to engage in interactive dialogue
- Limiting use of certain amenities (ex. pool, grill, laundry, etc.) more than other tenants



## Common Landlord/ Tenant Issues -- Not Discrimination but arise a lot

### Lease Restrictions

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- "Lease restrictions" are designed to ensure the systematic management of the property, protect the rights of other tenants, and maintain the property's condition. Both LLs and Ts need to understand these restrictions to avoid conflicts and legal issues.
- The lease cannot include terms that unfairly disadvantage voucher holders or are discriminatory. For example, charging a higher security deposit or imposing additional fees because of the tenant's voucher status would be considered discriminatory.

# Common Lease Restrictions

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- Occupancy Limits
- No Pets
- Noise
- Smoking
- Subletting
- Alterations and Repairs
- Illegal Activities

# Change of landlord/property owner

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When a property with a voucher holder is sold, the new landlord must take over the existing lease, comply with housing regulations, and ensure the smooth continuation of the voucher program. Effective communication and adherence to legal requirements are crucial for a successful transition.

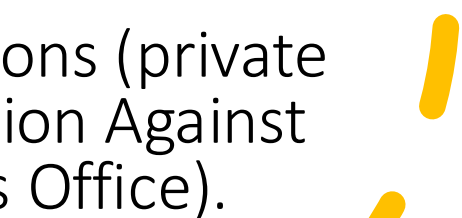
Here are some key processes and considerations:

- **Existing Lease:** The existing lease between the tenant and the previous landlord remains in effect. The new owner should honor the terms of the current lease until it expires or is modified.
- **Lease Terms changes:** If changes are proposed, they must be reasonable and compliant with state and federal housing laws.
- **Administering Agency Notification:** The administering agency will be informed of the change in ownership to ensure the continuation of the voucher payments.
- **Property Inspection:** The new landlord may be required to undergo a property inspection to ensure it meets the habitability standards set by the administering agency. The new landlord should ensure the property remains compliant with these standards.

# Fees that may come up (not all are legal!)

- Application Fee
- Background check fee
- Security deposit
- Broker fee
- First and last months' rent
- Parking fee
- Move-in fee
- Pet fee
- Fee for reasonable accommodations

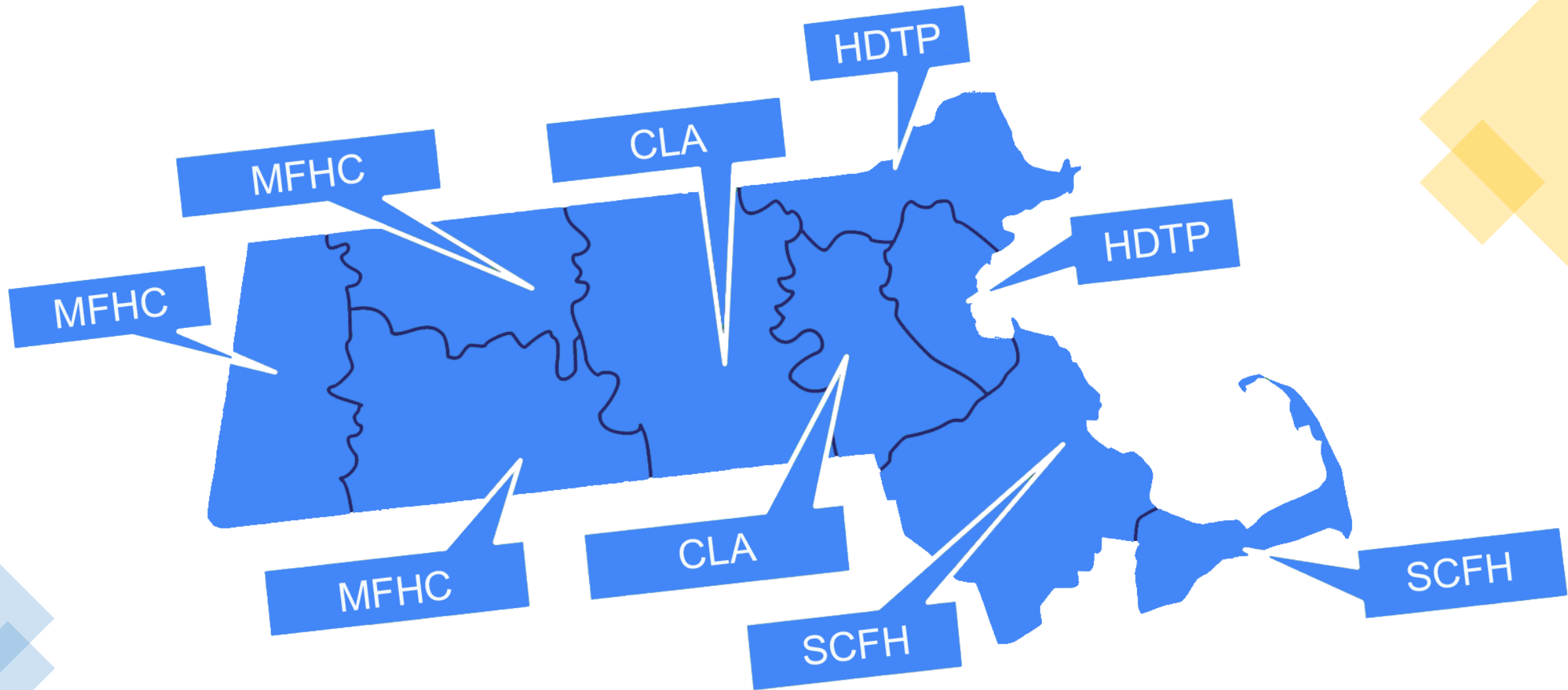
# What YOU Can Do When a Landlord and/or Property Owner Discriminates

1. Recommend that the renter document the incident.
    - Mobile app to assist renters in documenting their housing search and any discrimination:  
[https://apps.suffolklitlab.org/run/housing\\_search\\_log/#/1](https://apps.suffolklitlab.org/run/housing_search_log/#/1)
    - Take notes, gather all communication (e.g., text messages, emails, etc.)
  2. Consider advocating to the housing provider on behalf of the renter and documenting your interactions.
  3. Call FHAM to refer client or report the discrimination.
  4. Offer client other referral suggestions (private attorney, Massachusetts Commission Against Discrimination, Attorney General's Office).
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# How Can FHAM Help?

- Voucher holders can talk with us prior to deciding whether to pursue an official complaint.
- We may be able to identify additional evidence to support the allegations so the complainant can feel more confident about pursuing a formal complaint.
- We offer legal representation so tenants do not have to pursue a complaint alone.
- Even if a voucher holder does not want to pursue a complaint, FHAM welcomes "tips" about potentially discriminatory practices. FHAM may be able to stop future discriminatory behavior even if the voucher holder themselves does not want to pursue a complaint.

# FHAM Service Areas



# Contact FHAM

(508) 444-9332 | mafham.org

Please direct renters to the FHAM phone number above.

Representatives are welcome to contact the individuals listed to the right directly.



**Suffolk University  
Housing Discrimination Testing Program:**  
Ashley Grant  
(617) 573-5790

**SouthCoast Fair Housing:**  
(774) 473-9994

**Massachusetts Fair Housing Center:**  
Vineeth Hemavathi  
(413) 437-0094

**Community Legal Aid:**  
Michelin Cahill  
(508) 425-2812



# Written Guidance / Resources

- General Guidance:
  - <https://www.mass.gov/info-details/training-resources-for-state-rental-assistance-program-providers>
  - <https://www.mass.gov/doc/non-discrimination-in-state-rental-assistance-programs/download>
- Guidance on Tenant Screening:
  - [https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO\\_Guidance\\_on\\_Screening\\_of\\_Applicants\\_for\\_Rental\\_Housing.pdf](https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO_Guidance_on_Screening_of_Applicants_for_Rental_Housing.pdf)
- Guidance on Reasonable Accommodations/Modifications:
  - [https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf)
  - <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>
  - <https://www.mass.gov/doc/fy23-animal-guidance-032923-0/download>