

Fair Housing

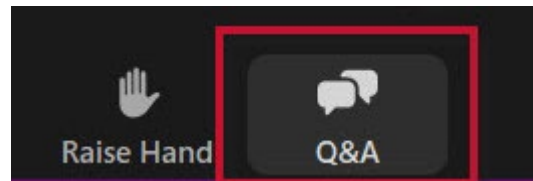
EOHLC Office Hours
Friday September 20, 2024

ENGAGEMENT BEST PRACTICES

Asking Questions

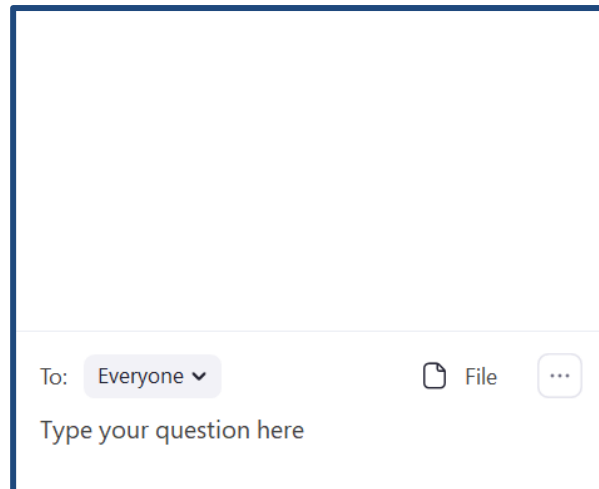
We will be monitoring the Q&A for questions

1



Click “Q&A” to submit a question (or “Raise Hand” to share a verbal question at designated breaks)

2

A screenshot of a Q&A submission form. It features a large white text area for entering the question. Below the text area, there is a 'To:' dropdown menu currently set to 'Everyone', a 'File' button with a document icon, and a three-dot menu icon. The text 'Type your question here' is positioned below the dropdown menu.

Enter your question into the “Q&A” box

We will follow up with answers to any questions that we don’t get to during the session

THIS CALL IS BEING RECORDED



DRAFT FOR POLICY AND PROGRAM DEVELOPMENT

Fair Housing & Vouchers

Developed by FHAM, Fall 2023

Who are we?

FHAM – short for Fair Housing Alliance of Massachusetts is a coalition of four fair housing advocacy agencies in Mass., with the goal of eliminating voucher discrimination across the state.

FHAM is supported by funding from HLC.



How Can We Help?

We offer:

- Fair Housing Testing to investigate discrimination
- Advocacy and/or representation for individuals experiencing discrimination
- Training/Information about Fair Housing
- Assist individuals with housing search (MFHC)



Agenda

- I. General fair housing information
- II. What is it like for some voucher holders in the rental market?
- III. Disability and fair housing
- IV. Information for Case Workers
- V. Fair housing help – what to do if you know someone experiencing discrimination

Not Legal Advice


Nothing communicated during this fair housing training should be considered legal advice. If you have legal questions, you should consult with your own attorney.



1968 Fair Housing Act & 151B Section 4

The Fair Housing Act and Massachusetts Anti-Discrimination Law prohibit discrimination by housing providers (e.g., landlords, real estate companies, banks) due to a person's membership in a protected class.

Protected Classes

Federal (and Massachusetts)	Massachusetts only
Race	 that whole list, +
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, Guardians, Pregnant People)	Military or Veteran Status
Disability	Ancestry
	Genetic Information
	Public Assistance

Prohibited Conduct

- Refuse to rent a property or otherwise make unavailable
 - E.g. A Landlord saying a property is “no longer available for rent” after hearing that an applicant has a child under the age of six, but keeping the rental listing posted for other applicants.
- Set different terms, conditions or privileges for sale or rental
- “Steer” the individual by only showing them certain apartments/neighborhoods.
- Refuse to grant a reasonable accommodation or modification to someone with a disability.

Prohibited Conduct (cont.)

- Make inquiries into a protected category.
 - What country are you from? What is your disability?
- To make, print, or publish any statement that indicates a preference or limitation based on a protected class.
 - “No vouchers” or “No families with kids under 6”
- Coerce, intimidate, threaten, or interfere with anyone exercising a fair housing right or assisting others who exercise those rights.

What is Housing Discrimination?

Illegal discrimination occurs when someone providing housing engaged in prohibited conduct due to a person's membership within a protected class.

Protected Class + Prohibited Conduct = Illegal Discrimination

Housing Search Experiences as a Voucher Holder

After a long housing search, Susanna – a housing voucher recipient – found a home that would be perfect for her family. However, when she contacted the landlord to begin the application process, he told her that he did not want to keep the unit vacant during the inspection process and planned to rent to an applicant without a voucher instead.



“Qualified Renters Need Not Apply”

- 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!)
- So that would mean 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

- “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.”
- "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?

- Ghosted/no further communication after saying they have a voucher
- 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

- 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

Lead Paint Discrimination

- It is illegal to refuse to rent to a family with a child under the age of 6, even if there is lead paint present in the rental unit.
- The Massachusetts Lead Paint Law:
 - requires the removal/covering of lead paint hazards in homes built before 1978 where children under the age of six live.
 - Start of tenancy may be reasonably delayed during the lead abatement process.
 - Current tenants must be housed elsewhere at LL's expense during the lead abatement process (but still be paying rent).
 - The landlord bears the cost of removal/covering of lead paint hazards.
- There are *no* exceptions to these requirements.

Definition of Disability

- 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

- **Reasonable Accommodations (RA)** are changes in rules, policies, practices, or services to give equal opportunity to housing.
- Housing providers (LHAs, RAAs, real estate agents, landlords) must engage in an interactive process when an individual with a disability makes a request
 - Ex (from landlord): designated parking spots, permission to have an assistance animal, or permission to transfer to a larger unit
 - Ex (from LHAs/RAAs): increase in voucher size, increased payment standard, extension of housing search time.
- Reasonable accommodations are made at the expense of the housing provider.

Reasonable Modifications

- **Reasonable Modifications** are structural changes needed by a person with a disability to existing premises.
- i.e. install a ramp into a building, lower entry threshold of a unit, install grab bars in bathroom
- Paying for Reasonable Modifications:
 - **Federal Funding:** Housing providers receiving federal funding must pay for reasonable modifications unless it would cause an undue financial hardship.
 - **No Federal Funding:**
 - Tenant pays unless landlord did not comply with required accessibility features.
 - In MA, if unit is part of 10+ unit property/planned development or is publicly assisted, Landlord must pay unless it would cause an undue financial hardship

Reasonable Accommodations & Modifications

- Requestor doesn't need to specifically use the words "reasonable accommodation" or "modification" to start this process
- Cannot require the use of specific forms for an RA
- Disability documentation is not always required (e.g. for a disability that is readily apparent or already known)
- Can be requested at any time
- All information provided as part of RA/RM request must remain confidential
- No response or prolonged delay is wrong – reach out for help!

The Reasonable Accommodation/Modification process is a HIGHLY
INDIVIDUALIZED process

Each request will be unique and should be dealt with as such –
considerations of how other voucher holders or tenants have been
treated should not be part of the analysis.

It Doesn't End with Lease Up

Discrimination against voucher holders can happen even after they sign a lease.

- Housing provider refuses to make repairs to apartment or takes steps to evict tenant after failing a Section 8 inspection
- At lease renewal, housing provider increases voucher holder's rent more than other tenants without vouchers
- Housing provider refuses to allow tenant with a disability to have an assistance animal.

Information Case Workers Should Know:

Extra Time for Housing Search, 24 CFR § 982.303(b)

- Voucher holders may **request extra time for their housing search** if they:
 - experience discrimination in their housing search
 - or are unable to lease up for disability-related reasons

Increase to the Payment Standard, 24 CFR § 982.505(d)

- Some people may **request an increase to the payment standard for a disability-related need.**
 - PHAs can establish an exception payment standard of up to and including 120 percent of the published FMR as a reasonable accommodation.
 - HUD approval is required for higher than 120 percent.

Additional Bedrooms, 24 CFR § 982.402(a)(1)

- Some people might **need additional bedrooms in a unit based on disability-related need**
 - Example: A 2-person family needs 3 bedrooms for medical equipment

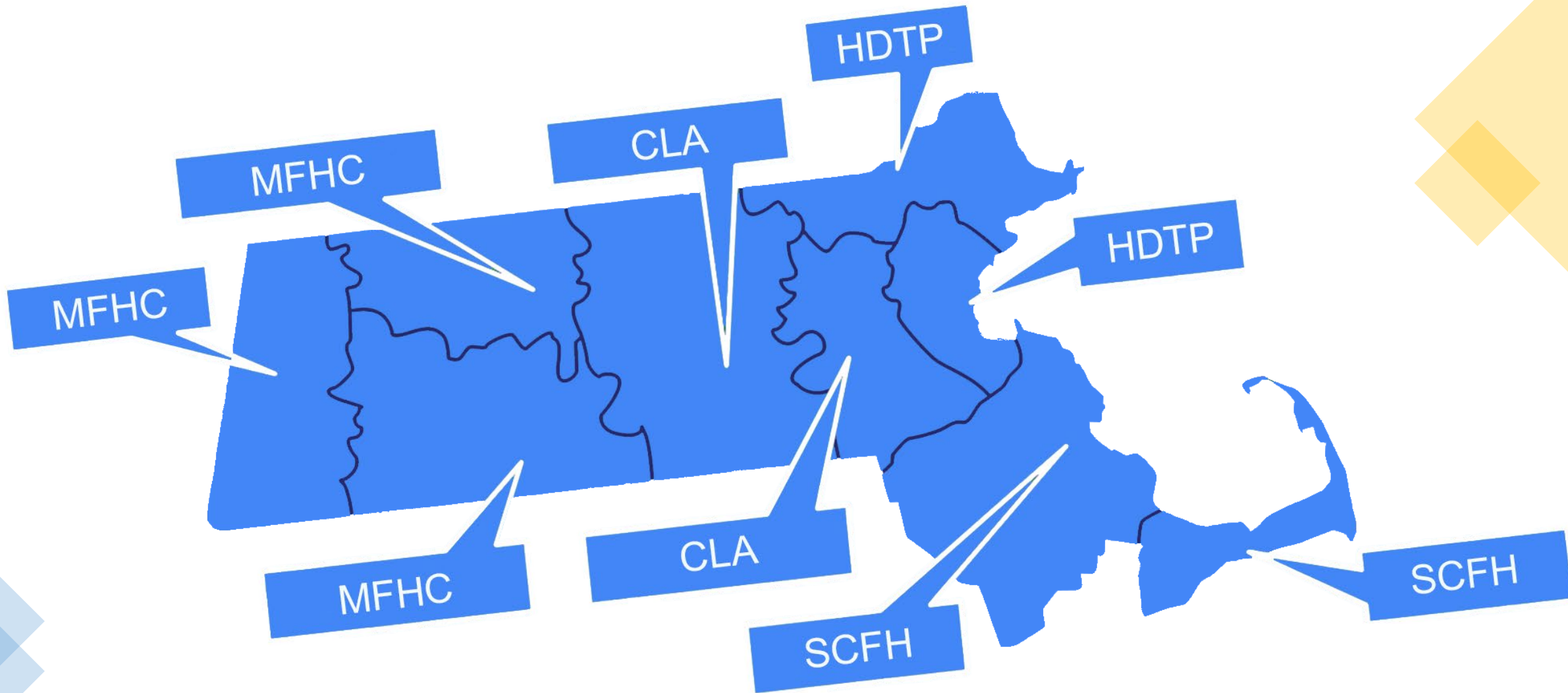
What to Do When Discrimination Happens

1. Recommend that your client document the incident
 - take notes, gather all communication (e.g., text messages, emails, etc.)
2. Offer client referral suggestions (FHAM, private atty, MCAD, AG)
3. Call FHAM to refer client or report the discrimination
4. Consider if your client needs an extension

Why Report Discrimination?

1. Uncover Systemic Discrimination and Obtain Justice
2. Hold housing providers accountable
3. Obtain Monetary Relief
4. Secure stable housing
5. Prevent Future Discrimination

FHAM Service Areas



FHAM Contact Information – (508) 444-9332

Massachusetts Fair Housing Center (MFHC):

- Phone: 413-539-9796
- Email: info@massfairhousing.org
- Visit: massfairhousing.org

Community Legal Aid (CLA):

- Phone: 855-252-5342
- Visit: communitylegal.org/get-help/report-housing-discrimination

Housing Discrimination Testing Program (HDTP):

- Phone: 617-884-7568
- Visit: suffolk.edu/law/academics-clinics/clinics-experiential-opportunities/housing-discrimination-testing-program

SouthCoast Fair Housing (SCFH):

- Phone: 774-473-9994
- Visit: southcoastfairhousing.org

QUESTIONS

THANK YOU!

