



FACT SHEET:

No Good Cause for Discrimination: Some Evictions Are Never Allowed

Landlords can often decide when it’s legitimate to try to evict someone. **There are some situations, however, in which landlords do not have a legally acceptable reason to evict someone.** This document covers some of those circumstances.

Landlords may NOT evict or threaten to evict someone . . .

Because of a tenant’s:

- **Race,**
- **Color,**
- **Religion,**
- **Sex** (including sexual orientation or gender identity),
- **National origin,**
- **Disability,** or
- **Familial status.**¹

It doesn’t matter that a landlord might have the right to evict a tenant for *other* reasons. If the eviction decision was based in part on one of these reasons, the landlord violates the Fair Housing Act.²

For example, a landlord violates the law if they evict a Black tenant for unpaid rent, but not a similarly situated White tenant who also has unpaid rent. Even if someone is behind on their rent and subject to eviction, a landlord may not pick and choose *which* tenants to evict based on any protected characteristic.³

This is true even if the lease specifically gives the landlord broad authority, power, or discretion to evict.

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For example, if a landlord refuses to add a tenant’s domestic partner to the lease because the partner is Hispanic, this refusal and any related threat to evict is illegal. It doesn’t matter whether:

- the lease gives the landlord the right to determine who is in the household;
- the lease gives the landlord the right to evict for unauthorized occupants;⁴ or
- there is some other reason for the refusal to add the partner allowed by the lease — if the landlord acts for a discriminatory reason, it’s not allowed.⁵

It may not be obvious that a landlord is acting because of a person’s protected characteristic. But there can be clues.

For example,

- threatening to evict a tenant for not speaking English, or for having an accent, is typically national origin discrimination⁶
- evicting someone because a building manager believes the tenant is LGBTQI+ is discrimination because of sex⁷
- evicting a tenant because other tenants or community members have discriminatory preferences or have made discriminatory statements is illegal discrimination.⁸

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<p>Because a tenant is pregnant or has children or has children of a certain age.</p>	<p>The Fair Housing Act prohibits landlords from discriminating against tenants with children, who are pregnant, or who are trying to adopt or foster.⁹ This means that a landlord may not evict a family because a child joins the family through birth, adoption, or a change in custody, or because the tenant is pregnant or otherwise has plans to add a child to their household.¹⁰</p> <p>And landlords may not impose overly restrictive rules about what minors may or may not do in their housing and then try to evict the family for breaking those rules:</p> <p><i>For example,</i></p> <ul style="list-style-type: none">• banning children from playing or being present in common or outdoor areas without an adult¹¹ or• requiring all minors have an adult present to use community amenities¹² <p>— are all examples of illegal discrimination based on familial status.</p>
<p>Because a tenant refused sexual advances.</p>	<p>Landlords violate the Fair Housing Act if they retaliate against a tenant for refusing the landlord’s sexual advances or if they use eviction as a threat to get sexual or romantic favors from the tenant.¹³ This could include asking the tenant for sex or sexually explicit photographs.¹⁴</p>

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	<p>It doesn't matter whether the tenant complies with or refuses these advances as long as the advances are unwelcome.¹⁵</p> <p>These kinds of actions could expose a landlord to civil penalties as well as to criminal charges.¹⁶</p>
<p>Because a tenant reported a crime or an emergency.</p>	<p>Under the Violence Against Women Act (VAWA), a landlord may not evict or otherwise penalize any tenant for seeking out law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance.¹⁷</p> <p>These calls for help can be for any emergency, such as needing medical assistance, and do not have to involve a domestic violence or sexual assault incident.</p> <p>For example, a landlord may not threaten to evict a tenant because the tenant called the police or an ambulance.</p> <p>This is illegal even if there is a local "nuisance" or "crime-free housing" law.¹⁸</p>
<p>In retaliation for a tenant exercising rights under the Fair Housing Act.</p>	<p>It is illegal to evict or threaten to evict anyone for exercising their rights under the Fair Housing Act.¹⁹</p> <p>For example, a landlord can't evict or threaten to evict someone for:</p> <ul style="list-style-type: none"> • reporting discrimination;²⁰ • helping others exercise their right to be free from discrimination;²¹

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	<ul style="list-style-type: none"> • participating in a HUD investigation of discrimination;²² or • asking for a reasonable accommodation due to a disability.²³
<p>When the landlord could have made reasonable accommodations instead.</p>	<p>A landlord may not ignore a tenant’s disability-related reasonable accommodation request to stop an eviction, even if there is a legitimate basis to evict under the lease or the eviction case already started.</p> <p>Reasonable accommodations may include staying a notice to vacate or an eviction proceeding,²⁴ withdrawing an eviction,²⁵ or otherwise “forbear[ing] from further eviction steps.”²⁶</p> <p>A tenant may make a reasonable accommodation request for the landlord to stop an eviction because the underlying lease violation was related to a disability.²⁷</p> <p>For example,</p> <ul style="list-style-type: none"> • a tenant may be paying rent late because their disability related government assistance arrives after the rental due date. The tenant could request a reasonable accommodation to make payments other than the required payment due date (to allow time for a disability check to be delivered)²⁸ or • a tenant may have an unsanitary apartment because of untreated major depressive

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	<p>disorder. He may request that a related eviction case be put on hold to give him time to get treatment for depression or access social services to help resolve the situation.²⁹</p> <p>These requests are not inherently unreasonable.³⁰</p> <p>A landlord can't avoid granting a requested accommodation by saying that the person is a direct threat – unless the landlord makes an individualized determination that an individual poses such a threat based on reliable objective evidence.³¹ The landlord must consider, among other things, whether there are any reasonable accommodations that will eliminate or significantly reduce the direct threat.³² For example, the housing provider could allow the tenant time for treatment or a live-in aide to monitor medication use.</p>
<p>Because of the mere presence of an assistance animal in a “no pets” building.</p>	<p>Reasonable accommodations can also include access to assistance animals.³³ It is illegal to evict a tenant with a disability because the tenant lives with an assistance animal to help manage their disability.³⁴</p> <p>An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person's disability.³⁵</p>

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	<p>Evicting someone for failing to pay pet fees for their assistance animals is also not good cause³⁶ for eviction.</p>
<p>If it would have a discriminatory effect on a protected class and is not necessary.</p>	<p>Even if the landlord doesn't intend to discriminate, evictions can still be illegal under the Fair Housing Act if 1) they would harm a group of people with a particular protected characteristic more than they would harm others who are not in that same group and 2) if the evictions are not necessary to achieve a substantial legitimate interest or if the landlord's interest could be achieved by a less discriminatory alternative to eviction.³⁷</p> <p><i>For example,</i> a landlord who takes over a building and decides to evict all households with a member who has any felony conviction history likely has no good cause to evict.³⁸</p> <p>The landlord here doesn't consider whether the households he is evicting have caused any trouble during their tenancy, how old their record is, or how related the record is to the safety of others in the building. The landlord believes evicting anyone with a felony conviction will solve a crime problem at the building.</p> <p>But such overly broad eviction policy is not necessary, and it's going to have a predictable disparate impact on people of color and people with disabilities.³⁹</p>

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There are less discriminatory and more effective ways of addressing a crime problem, such as focusing on tenants who are currently causing problems for their neighbors, and ensuring security cameras, lighting, and locks work properly and are appropriately placed.⁴⁰

What Types of Housing Are Covered? VAWA’s right to report provision covers all housing⁴¹ and the Fair Housing Act covers most housing.⁴² The housing does not need to receive federal assistance to be covered by the VAWA or the Fair Housing Act, but additional protections may apply if federal assistance is involved.⁴³

**To report housing discrimination, please
call HUD at 1-800-669-9777 or
visit [hud.gov/fairhousing/fileacomplaint](https://www.hud.gov/fairhousing/fileacomplaint)
to file a complaint online.**

¹ 42 U.S.C. § 3604.

² See U.S. Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity, Know Your Fair Housing Rights When You Are Facing Eviction, *available at* www.hud.gov/program_offices/fair_housing_equal_opp/Know_Your_Fair_Housing_Rights (“A landlord cannot make the decision to evict you based in whole or in part on one of these [protected] characteristics. It does not matter that the landlord might have the right to evict you for other reasons. If the eviction decision was based in part on one of these reasons, the landlord violates the Fair Housing Act”). Courts have differed on how to analyze cases where a person is motivated by both discriminatory reasons and non-discriminatory reasons. See, e.g., *Moore v. Townsend*, 525 F.2d 482, 485 (7th Cir. 1975) (race is an “impermissible factor” and it need only “play[] some part in the refusal to deal”); *Pac. Shores Props., LLC v. City of Newport Beach*, 730 F.3d 1142, 1158 (9th Cir. 2013) (a cause of action under Fair Housing Act is established where there is “any indication of discriminatory motive” and “defendant’s actions adversely affected the plaintiff in some way”); *Vanderburgh House, LLC v. City of Worcester*, 530 F. Supp. 3d 145, 154–55 (D. Mass. 2021) (to prevail under a disparate treatment claim under the Fair Housing Act, a plaintiff need only demonstrate “that a protected characteristic played a role in the defendant’s decision to treat her

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differently"); compare to, e.g., *Mhany Mgmt., Inc. v. County of Nassau*, 819 F.3d 581, 616 (2nd Cir. 2016) (“[O]nce a plaintiff proves an adverse action ‘was motivated, at least in part, by an impermissible reason, . . . the defendant can prevail if it sustains its burden of proving its affirmative defense that it would have taken the adverse action on the basis of the permissible reason alone[.]’”); *United States v. Big D Enters.*, 184 F.3d 924, 931 (8th Cir. 1999) (“When evidence of permissible and impermissible motives are present, a defendant will be held liable unless it can show that it would have taken the same action against the plaintiff regardless of the improper motive[.]”).

³ Adapted from HUD, Office of Fair Housing and Equal Opportunity, Know Your Fair Housing Rights When You Are Facing Eviction, available at www.hud.gov/program_offices/fair_housing_equal_opp/Know_Your_Fair_Housing_Rights.

⁴ See, *id.*; *United States v. Wallschlaeger*, Civ. No. 3:14-cv-00129-SMY-SCW (S.D. Ill. Jan. 4, 2014) (Department of Justice (DOJ) complaint alleging that landlords’ refusal to authorize that an individual to be added to lease, and threats to evict the family for the presence of an unauthorized individual, were illegal under the Fair Housing Act) available at www.justice.gov/sites/default/files/crt/legacy/2014/02/07/wallschlaegercomp.pdf (originated with HUD charge of discrimination against landlords); *United States v. Wallschlaeger*, Civ. No. 3:14-cv-00129-SMY-SCW (S.D. Ill. July 15, 2015) (consent judgement against landlord to resolve above-described allegations for \$217,500, plus \$34,000 in civil penalty to the United States) available at www.justice.gov/opa/pr/justice-department-obtains-251500-settlement-housing-discrimination-lawsuit-against-effingham. HUD-assisted landlords are also subject to the general rule that where discretion is given to landlords, that discretion must still be exercised in a non-discriminatory way. See, e.g., *Altman v. Eco Vill., Ltd.*, No. C 79-202, 1984 WL 957880, at *11 (N.D. Ohio June 21, 1984) (holding that evictions of tenants in HUD-assisted housing violated the Fair Housing Act, despite the fact that the relevant programmatic statute granted the owner broad discretion to evict its tenants); *Comer v. Cisneros*, 37 F.3d 775, 795 (2d Cir. 1994) (the U.S. Housing Act is subject to various limitations including that its administration must be consistent with the Constitution and civil rights laws).

⁵ See note 2 above; *Vanderburgh House, LLC v. City of Worcester*, 530 F. Supp. 3d 145, 154-55 (D. Mass. 2021) (to prevail under a disparate treatment claim under the Fair Housing Act, a plaintiff need only demonstrate “that a protected characteristic played a role in the defendant’s decision to treat her differently”).

⁶ HUD, Office of General Counsel, Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency (2016), available at www.hud.gov/sites/documents/LEPMEMO091516.PDF.

⁷ See HUD, Office of Fair Housing and Equal Opportunity, Memorandum, Housing Discrimination and Persons Identifying as Lesbian, Gay, Bisexual, Transgender, and/or Queer Questioning (LGBTQ) (Feb. 1, 2022) available at www.hud.gov/program_offices/fair_housing_equal_opp/housing_discrimination_and_persons_identifying_lgbtq; HUD, Office of Fair Housing and Equal Opportunity, Memorandum, Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act (Feb. 11, 2021), available at www.hud.gov/sites/dfiles/PA/documents/HUD_Memo_EO13988.pdf.

⁸ See, e.g., *The Sec’y, v. Carlson*, No. HUD ALJ 08-91-0077-1, 1995 WL 365009, at *9 (June 12, 1995) (“Case law supports the proposition that complainants may prove discrimination by showing that respondents acted in response to the discriminatory wishes of a third party”) (citing *Cato v. Jilek*, 779 F. Supp. 937 (N.D. Ill. 1991)

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(a landlord’s claim that he didn’t rent to an interracial couple because a current tenant made comments that there may be racially motivated trouble at his property if the couple lived there was evidence of discriminatory intent); *Village of Bellwood v. Dwivedi*, 895 F.2d 1521, 1531 (7th Cir. 1990) (“Suppose a merchant refuses to hire black workers not because he is racist but because he believes that his customers do not like blacks and will take their business elsewhere if he hires any. The refusal is nevertheless discrimination, because it is treating people differently on account of their race”); *Peoples Helpers, Inc. v. City of Richmond*, 789 F. Supp. 725, 732 (E.D. Va. 1992) (finding that where a city received complaints from citizens that it believed to be in part based discriminatory motives, and where the city acted on those complaints, this was “sufficient” to show discriminatory intent). Racially charged code words can also be clues. See, e.g., *Mhany Mgmt., Inc. v. Cnty. of Nassau*, 819 F.3d 581, 608 (2d Cir. 2016) (finding that racially charged code words, including concerns about a village’s “character” and “flavor,” and worries about affordable housing for families (which would likely be housing mostly minorities) may provide evidence of discriminatory intent).

⁹ 42 U.S.C. § 3602(k) (defining familial status as “one or more individuals (who have not attained the age of 18 years) being domiciled with (1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.”; 24 C.F.R. § 100.20 (same). See also *Ortega v. Hous. Auth. of City of Brownsville*, 572 F. Supp. 2d 829, 840 (S.D. Tex. 2008) (explaining that foster parents fall under the second prong of the definition of familial status under the statutory and regulatory definition); *Gorski v. Troy*, 929 F.2d 1183, 1187 (7th Cir. 1991) (recognizing that foster families enjoy a protected familial status under the federal Fair Housing Act); *Andujar v. Hewitt*, No. 02 Civ. 2223, 2002 U.S. Dist. LEXIS 14294, *22-26 (S.D.N.Y. Aug. 2, 2002) (same). It also may be illegal familial status discrimination under the Fair Housing Act to evict a grandparent for violating an overly restrictive guest policy limiting child visitors. See HUD, Office of Fair Housing and Equal Opportunity, Alabama Housing Providers Accused of Age, Disability, and Familial Status Discrimination Agree to Pay \$20,000 to Resolve HUD Complaint (describing voluntary resolution of allegations that the landlord told a grandparent she could no longer provide childcare for her grandchildren in her home because of a policy barring visitors under 12 years old, which included an allegation of familial status discrimination under the Fair Housing Act). This prohibition on discrimination based on familial status also means that landlords may not impose unreasonable rules about how many people live in housing. While the law allows landlords to follow reasonable occupancy standards, evicting or otherwise denying housing opportunities because of a family’s size is often still illegal. See, e.g., HUD, Memorandum from Frank G. Keating Regarding Reasonable Occupancy Standards and Fair Housing Enforcement 63 70984-70985 available at www.hud.gov/sites/documents/DOC_7780.PDF (explaining that even though a two-person-per-bedroom policy is generally a reasonable rule, there are circumstances that may make such a rule unreasonable and violate familial status protections, such as if the bedrooms and living spaces are large). See also *HUD v. Khan*, FHEO No. 06-18-2511-8 (April 1, 2021) (HUD charge of discrimination against landlord who stated 10 children was too many for a six-bedroom house), available at www.hud.gov/sites/dfiles/FHEO/documents/21Charge%20Final_Redacted.pdf; *HUD ex rel. Paul v. Sams*, 1993 WL 599076 (HUD ALJ 1993), *aff’d*, 76 F.3d 375 (4th Cir. 1996) (finding that refusal to rent to potential tenants because they had two children was unlawful discrimination under the Fair Housing Act); *Kelly v. HUD*, 3 F.3d

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951 (6th Cir. 1993) (affirming ALJ determination that landlord illegally discriminated based on familial status when landlord refused to rent to tenants because they had more than two children); *HUD ex rel. Kelsay v. Wagner*, 1992 WL 406532 (HUD ALJ 1992) (finding that refusal to rent a two-bedroom apartment to an adult with two children is unlawful discrimination based on familial status); *HUD v. Katherine Grosso, Grosso Investment Properties, LLC*, HUDOHA No. 13-AF-0194-FH-028, 2014 WL 1499289 (H.U.D.O.H.A.) (March 18, 2014) (consent order resulting from HUD charge based on landlord's repeated refusal to rent or even offer available four-bedroom units to a family of one parent and seven minor children because landlord said family was "too many people" and that "I do not want such a large family in my property – it doesn't matter the size of the unit" and because landlord stated she had a policy of refusing to allow a parent and child to share a room, regardless of the child's age – even though the person with whom parent would have shared a room was her 19-month-old child), available at www.hud.gov/sites/dfiles/HA/documents/13-AF-0194-FH-028-Consent-Order.pdf.

¹⁰ See *United States v. Rupp*, Case No. 4:19-CV-02644-SEP, 2021 WL 2187912 (E.D. Mo. 2021) (jury verdict under Fair Housing Act against landlord based on landlord's termination of a family's lease due to the birth of family's second child) (complaint filed based on HUD charge), available at www.justice.gov/crt/case/united-states-v-louis-rupp-ii-and-pauline-rupp-ed-mo; *United States v. Bacchus*, Case No. 2:21-cv-368-ABI (E.D. Pa. Feb. 1, 2022) (consent order awarding damages based on allegations that landlord threatened to evict tenant if tenant's pregnant partner and daughter moved into the unit) (complaint filed based on HUD charge) available at www.justice.gov/crt/case/united-states-v-mohamed-bacchus-and-alan-zander-e-d-pa. See also *HUD ex rel. REDACTED v. Teruel*, FHEO No. 09-21-5035-8 (Mar. 30, 2023) (HUD charge of discrimination based on landlords' harassment for tenants' plans to have another child) available at [www.hud.gov/sites/dfiles/FHEO/documents/09-21-5035-8%20Charge%20of%20Discrimination%20\(Signed\).pdf](http://www.hud.gov/sites/dfiles/FHEO/documents/09-21-5035-8%20Charge%20of%20Discrimination%20(Signed).pdf).

¹¹ See, e.g., *Pack v. Fort Washington II*, 689 F. Supp. 2d 1237, 1243-44 (E.D. Cal. 2009) (granting summary adjudication to tenant plaintiffs who filed a complaint after their landlord served them with a 60-day notice for termination of tenancy. The court found landlord's lease regulations which required that all children 10 and under be supervised while outside and failure to obey was grounds for eviction were overly restrictive and violated § 3604(b). "While Defendants are free to impose rules for health and safety reasons, such rules must be reasonable." [...] "A requirement that all children 10 and under be supervised by an adult while outside is "overbroad and unduly restrictive. Under Defendants' rule, a 10 year old child could not read a book steps away from his front door."); *United States v. Plaza Mobile Ests.*, 273 F. Supp. 2d 1084, 1092 (C.D. Cal. 2003) ("Certainly, prohibiting all children from walking around the park without adult supervision is overly broad regardless of the concern. As with the absolute prohibitions, these adult supervision requirements are also not the least restrictive means to achieve any health and safety objectives."); *Fair Housing Center of the Greater Palm Beaches, Inc. v. Sonoma Bay Cmty. Homeowners Ass'n, Inc.*, 136 F. Supp. 3d 1364, 1372-74 (S.D. Fla. 2015) (condominium association failed to adequately justify its facially discriminatory loitering and curfew rules when it was unable to show that the rules were "the least restrictive means" to a non-discriminatory and justifiable end); *Bischoff v. Brittain*, 183 F. Supp. 3d 1080, 1089-92 (E.D. Cal. 2016) (holding unlawful apartment manager's policy of requiring young children to always be supervised by an adult); *Llanos v. Estate of Coehlo*, 24 F. Supp. 2d 1052, 1059-61 (E.D. Cal. 1998) (apartment complex fails to provide

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adequate justification for its rules restricting children's access to swimming pools and prohibiting their play in and around building areas); *compare to HUD v. Guglielmi*, 1990 WL 456958, Fair Housing—Fair Lending Rptr. ¶ 25,004, at p. 25,076 (HUD ALJ 1990) (rule excluding children from utility rooms unless accompanied by an adult is not illegal because doing so is “well-grounded in our way of life.”). See also HUD Press Release, “HUD Fair Housing Partners Reach \$3 Million Settlement with California Housing Providers Resolving Allegations of Housing Discrimination Against Families With Children” available at www.hud.gov/press/press_releases_media_advisories/hud_no_23_073 (describing a \$3 million settlement of allegations that landlords “discriminated against families with children . . . by prohibiting any outdoor play activities and requiring parents to supervise children under the age of 14 in all common areas”).

¹² See *United States v. Orchard Village, LLC*, Case No. 4:21-cv-00620 (E.D. Mo. May 28, 2021) (DOJ complaint against landlord for violating the Fair Housing Act by evicting family for 16-year-old daughter breaking a rule prohibiting children from accessing the computer room, onsite movie theater, fitness center, or pool without adult accompaniment) (based on HUD charge of discrimination) available at www.justice.gov/media/1146016/dl?inline; *Iniestra v. Cliff Warren Inv., Inc.*, 886 F. Supp. 2d 1161, 1167–68 (C.D. Cal. 2012) (“The Court finds that even if the underlying safety and noise concerns were compelling business necessities, the four policies at issue are not the least restrictive means of achieving Defendants’ stated goals. The Pool Use Rule — which uniformly prevents children under 18 from entering the pool without an adult — is not an efficient method of achieving pool safety. Indeed, it is entirely possible that younger children might be more adept swimmers than their older counterparts . . . For these reasons, the Court in Fair Housing Congress struck down an age-based pool regulation similar to the one here, finding that ‘[a] prohibition on unsupervised swimming which would prevent even a 17-year old certified lifeguard from swimming unaccompanied is overly restrictive.’”); *Pack v. Fort Washington II*, 689 F. Supp. 2d 1237, 1246 (E.D.Cal.2009) (“while the Court recognizes the inherent dangers of unsupervised swimming, the requirement of [the supervising adult being a] parent or legal guardian... transforms this rule from one that could be reasonably interpreted as a safety precaution to one that simply limits children and their families.”); *HUD v. Paradise Gardens*, 1992 WL 406531, Fair Housing—Fair Lending Rptr. ¶ 25,037, at pp. 25,388–91 (HUD ALJ 1992) (rules restricting children's use of the swimming pool were not justified on the basis of safety concerns because those are generally to be left to residents, and the rule was found to not address alleged health concerns); *compare to HUD v. Murphy*, 1990 WL 456962, Fair Housing—Fair Lending Rptr. ¶ 25,002, at p. 25,053 (HUD ALJ 1990) (rules restricting children of certain ages from using swimming pool and other recreational facilities without an accompanying adult serve legitimate safety and maintenance purposes).

¹³ See, e.g., *United States v. Juan Goitia et al*, 3:20-cv-000056 (S.D. Iowa Nov. 6, 2020) (DOJ complaint alleging, among other things, that landlord violated Fair Housing Act when he issued a lease termination notice in retaliation for tenant refusing his sexual advances) available at www.justice.gov/crt/case/united-states-v-goitia-sd-iowa; *United States v. Juan Goitia et al*, 3:20-cv-000056 (S.D. Iowa May 16, 2022) (consent order settling above matter) available at www.justice.gov/opa/pr/justice-department-secures-settlement-sexual-harassment-lawsuit-against-iowa-landlord-0; *United States v. Hurt*, 676 F.3d 649 (8th Cir. 2012) (“Sexual harassment is actionable under the FHA when it creates a ‘hostile housing environment’ or constitutes ‘quid pro quo’ sexual harassment.”); *West v. DJ Mortgage, LLC*, 271 F. Supp. 3d 1336, 1359 (N.D.

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Ga. 2017) (holding that a landlord's refusal to perform maintenance repairs as a result of tenant's rebuff of his sexual advances violates the Fair Housing Act as "quid pro quo sexual harassment"). See also *HUD ex rel. REDACTED v. Morgan*, FHEO No. 08-21-2376-8 (Dec. 7, 2022) (charge of discrimination for repeated sexual harassment of tenant in violation of the Fair Housing Act), available at www.hud.gov/sites/dfiles/FHEO/documents/Morgan%20Charge%20Final%20%2812.7.22%29.pdf.

¹⁴ See, e.g., *United States v. Ables*, Case No: 1:18-cv-01249-JDB-jay (W.D. Tenn. 2019) (jury ruling in favor of plaintiff and awarding compensatory and punitive damages after property owner asked for sex and sexually explicit photos from tenant and retaliated when the tenant refused by, among other things, pursuing eviction of the tenant), available at www.justice.gov/crt/case/united-states-v-chad-david-ables-dba-pops-cove-wd-tenn (DOJ complaint filed based on HUD charge of discrimination).

¹⁵ 81 Fed. Reg. 63054, 63061 (Sept. 14, 2016); 24 C.F.R. § 100.600(a)(1) ("An unwelcome request or demand may constitute quid pro quo harassment even if a person acquiesces in the unwelcome request or demand.")

¹⁶ See, e.g., www.justice.gov/opa/pr/justice-department-obtains-45-million-settlement-new-jersey-landlord-resolve-claims-sexual (describing *United States v. Centanni*, Civil Action No. 2:20-cv-10053-HXN-AME (D.N.J. Dec. 16, 2021) where DOJ alleged defendant engaged in a pattern of sexual harassment and retaliation against tenants and applicants, was ordered to pay \$4.3 million in monetary damages, a \$107,050 civil penalty to the United States, dismiss pending retaliatory evictions, and take steps to repair credit for those whose retaliatory evictions had already occurred, and describing pending criminal charges against the landlord).

¹⁷ 34 U.S.C. § 12495; HUD, Office of Fair Housing and Equal Opportunity, Your Rights Under the Violence Against Women Act, www.hud.gov/program_offices/fair_housing_equal_opp/VAWA (Point 8) ("Landlords, homeowners, tenants, residents, occupants, guests of, or applicants for, any housing have the right to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance. They may not be penalized based on their requests for assistance, based on criminal activity for which they are a victim, or based on activity for which they are otherwise not at fault under a law, ordinance, regulation, or policy adopted by or enforced by a governmental entity that receives certain HUD funding.")

¹⁸ *Id.*; see also HUD, Office of the General Counsel Guidance on the Application of Fair Housing Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Other Who Require Police or Emergency Services (Sept. 13, 2016), available at www.federalregister.gov/d/2022-28073/p-67; www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF.

¹⁹ 42 U.S.C. § 3617 ("It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 805, or 806 of this title."); *Bloch v. Frischholz*, 587 F.3d 771, 782 (7th Cir. 2009) (en banc) (holding that a landlord threatening to evict a white man after finding out he is married to a black woman has plainly violated § 3617, regardless of whether he actually evicts the tenant or not). Of note, VAWA similarly bars public housing agencies and owners and managers of housing assisted under a "covered housing program" from retaliating against tenants for exercising their rights under VAWA. See 34 U.S.C. § 12494.

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²⁰ 24 C.F.R. § 100.400(c)(6) (prohibiting “[r]etaliating against any person because that person reported a discriminatory housing practice to a housing provider or other authority.”). See also *HUD v. Dana Christian and Yellowstone Apartments, LLC*, FHEO No. 08-21-2505-8 (Jan. 4, 2024) (HUD finding cause to charge a landlord with retaliation under the Fair Housing Act, where the landlord began eviction proceedings and engaged in other adverse actions against a tenant after she complained that the landlord engaged in unwanted and inappropriate advances toward the daughter, warning that if he did not stop talking to her in that manner, she would seek legal advice), available at www.hud.gov/press/press_releases_media_advisories/HUD_No_24_013; *United States v. Prashad*, No. 4:19-cv-40114-TSH (D. Mass. 2021) (Consent order awarding damages and requiring defendant to vacate a judgement obtained against tenant in eviction court after tenant reported sexual harassment by property manager to property owner, and property owner retaliated by filing an eviction action against the tenant), available at [www.justice.gov/media/1178856/dl?inline=](http://www.justice.gov/media/1178856/dl?inline=;); *United States v. Prashad*, 437 F. Supp. 3d 105, 107 (D. Mass. 2020) (denying defendant’s motion to dismiss in same matter); HUD Case No. 06-17-8923-6. *Letter of Findings of Noncompliance with Title VI*. HUD (Oct. 26, 2022).

²¹ 24 C.F.R. § 100.400(c)(4) (prohibiting “[i]ntimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this part.”)

²² 24 C.F.R. § 100.400(c)(5) (prohibiting “[r]etaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Fair Housing Act.”)

²³ See, e.g., *HUD v. Riverboy Corp.*, 2012 WL 1655364 *20-21 (HUD ALJ 2012), review on other grounds denied, 2012 WL 2069654 (HUD Secretary 2012); *Chavez v. Aber*, 122 F. Supp. 3d 581, 600 (W.D. Tex. 2015).

²⁴ See, e.g., *Anast v. Commonwealth Apartments*, 956 F. Supp. 792, 802 (N.D. Ill. 1997) (finding that plaintiff sufficiently pled that staying an eviction hearing would have constituted a reasonable accommodation); *Cobble Hill Apartments Co. v. McLaughlin*, 1999 Mass. App. Div. 166, at *4 (1999) (recognizing that staying eviction proceedings is a reasonable accommodation that landlords must consider, particularly in light of a tenant’s mental disability, even if the tenant does not specifically request it); *Douglas v. Kriegsfeld Corp.*, 884 A.2d 1109, 1127 (D.C. 2005) (request for a brief stay of the eviction proceeding is a reasonable accommodation because it imposes no “fundamental alteration” to the landlord’s practice nor “undue financial or administrative burdens.”)

²⁵ *Essex Mgmt. Corp. v. McAlister*, No. CIV 245572, 2007 WL 811093 (Cal. Super. Ct. Feb. 15, 2007) (refusal withdraw of eviction action as a reasonable accommodation was unlawful discrimination under the Fair Housing Act), affirmed as fully and fairly litigated by *McAlister v. Essex Prop. Tr.*, 504 F. Supp. 2d 903, 910-11 (C.D. Cal. 2007).

²⁶ *City Wide Assoc. v. Penfield*, 564 N.E.2d 1003, 1005 (Mass. 1991) (refusal to “forbear from further eviction steps” while a person with a disability pursued a program of outreach and counseling as a reasonable accommodation was unlawful discrimination under the Fair Housing Act).

²⁷ *Id.*; *Douglas*, 884 A.2d at 1121, 1128 (D.C. 2005); *Essex Mgmt. Corp.*, 2007 Cal. Super. LEXIS 11818, at *14-15; Joint Statement of The Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004) at 4-6, available at www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf; *Sinisgallo v. Town of Islip*

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Hous. Auth., 865 F. Supp. 2d 307, 341-42 (E.D.N.Y. 2012) (holding that a probationary period for adjustments to tenant medication and medical treatment is a reasonable accommodation); *Boston Hous. Auth. v. Bridgewater*, 898 N.E.2d 848, 849-50 (Mass. 2009) (public housing authority must consider reinstatement of tenancy as reasonable accommodation after a tenant with mental illness committed acts of violence against another tenant when off of the tenant's proper medication); *Super v. D'Amelia & Assocs., LLC*, 2010 WL 3926887, at *6 (D. Conn. Sept. 30, 2010) ("Courts have accepted a second chance – that is, a tenant's opportunity to remain in her dwelling notwithstanding the landlord's disability-neutral justification for eviction – as an accommodation, provided that it is coupled with the tenant seeking assistance for her disability.")

²⁸ See Fair Housing for Individuals with Mental Health, Intellectual or Developmental Disabilities: A Guide for Housing Providers ("What are reasonable accommodations and modifications?...Asking to change the due date for rent until after receipt of a social security disability check or a short- or long-term disability payment..."), available at www.hud.gov/sites/dfiles/FHEO/images/MD%20Fact%20Sheet%20-%20HP.pdf. See also Initial Decision and Consent Order, *HUD v. Park Regency LLC et al* (Oct. 29, 2020), available at www.hud.gov/sites/dfiles/FHEO/images/20HUDOHA_InitDecisionConsent.pdf (providing the reasonable accommodation of a fee-free rent payment grace period until the 6th of each month and paying \$27,000 to complainant); Charge of Discrimination, *HUD v. Morbach et al* (Mar. 20, 2006), available at www.hud.gov/sites/documents/DOC_14412.PDF; *Fair Hous. Rts. Ctr. in Se. Pennsylvania v. Morgan Properties Mgmt. Co., LLC*, 2017 WL 1326240, at *9 (E.D. Pa. Apr. 11, 2017) (finding that plaintiff adequately pled that defendant's blanket policy of rent being due on the first of the month "plausibly denies disabled people an equal opportunity to obtain housing" and may need to accommodate plaintiff's request to pay after their receipt of SSDI); *United States v. MA Partners 2*, Civil No. 3:23-CV-00407-K (N.D. Tex. June 27, 2023) (consent judgment following DOJ complaint that defendants violated the Fair Housing Act by discriminating on "the basis of disability in violation of the Act by refusing to allow complainants, who received their SSI and SSDI payments around the third of every month, to pay their rent by the fifth of the month.") (based on HUD charge of discrimination) available at www.justice.gov/crt/case/united-states-v-ma-partners-2-et-al; www.justice.gov/d9/case-documents/attachments/2023/02/22/complaint_ma_partners_2_brockbk_jvfinal.pdf.

²⁹ See, e.g., *Douglas*, 884 A.2d at 1127 (delaying eviction and giving opportunity for tenant to avoid eviction imposed no "fundamental alteration" in the nature of the landlord's practice or "undue financial or administrative burdens" when tenant requested stay of eviction to allow for treatment of mood disorder to clean unsanitary apartment).

³⁰ See, e.g., cases cited above in notes 23-29. See also *Hunt v. Aimco Props., L.P.*, 814 F.3d 1213, 1226 (11th Cir. 2016) (finding that the tenant had plead an adequate claim for failure to reasonably accommodate under the Fair Housing Act where landlord terminated tenant's lease based on tenant's son threatening to "sacrifice [the landlord's staff members] then trap all the residents in their apartments and set the property on fire" but the landlord refused to consider that the son was not a direct threat and refused to consider modifying its policies to accommodate the tenant's son's disabilities); *Roe v. Sugar River Mills Associates*, 820 F. Supp. 636 (D.N.H. 1993) (finding that landlord would violate Act by evicting tenant with a conviction for disorderly conduct for threatening elderly neighbor without first demonstrating that no reasonable accommodation

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would eliminate or acceptably minimize the risk he posed to other residents at the complex); *Roe v. Housing Authority of City of Boulder*, 909 F. Supp. 814 (D. Colo. 1995) (finding landlord violated the Fair Housing Act by attempting to evict tenant without considering accommodating the tenant’s disabilities where tenant had struck and injured another tenant, threatened apartment manager, and made noise).

³¹ Joint Statement of The Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004) at 4-6, available at www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf; *Sinisgallo*, 865 F. Supp. 2d at 336 (“In determining whether an individual poses a direct threat to the health or safety of others, the agency must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk”) (citing Joint Statement and applicable HUD regulations).

³² *Id.*; see also *Boston Hous. Auth.*, 898 N.E.2d at 859 (finding that a public housing authority must consider reinstatement of tenancy when a tenant with mental illness committed acts of violence against another tenant when off of their proper medication); *Super*, 2010 WL 3926887, at *6 (“Courts have accepted a second chance – that is, a tenant’s opportunity to remain in her dwelling notwithstanding the landlord’s disability-neutral justification for eviction – as an accommodation, provided that it is coupled with the tenant seeking assistance for her disability.”).

³³ See HUD, Office of Fair Housing and Equal Opportunity, FHEO-2020-01, Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act (Jan. 28, 2020), at www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf; *Douglas*, 884 A.2d at 1128 (D.C. 2005) (recognizing that assistance animals may be a reasonable accommodation even when contrary to the landlord’s standard policy against pets); *Bronk v. Ineichen*, 54 F.3d 425, 428 (7th Cir. 1995) (“Balanced against a landlord’s economic or aesthetic concerns as expressed in a no-pets policy, a deaf individual’s need for the accommodation afforded by a hearing dog is, we think per se reasonable within the meaning of the [Fair Housing Act].”); *Crossroads Apartments Assocs. v. Le Boo*, 578 N.Y.S.2d 1004 (N.Y. 1991) (holding that a tenant with mental illness can retain his cat contrary to the landlord’s “no pet” policy because the tenant needed the pet to deal with his mental illnesses).

³⁴ Joint Statement of The Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 14, 2004) at 6-7 (a housing provider must accommodate a tenant’s request for an assistant animal even if they have a “no pet” policy), available at www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf; *United States v. Rutherford Tenants Corp.*, (S.D.N.Y. 2021) (election complaint filed by DOJ following HUD charge of discrimination alleging violation of the Fair Housing Act after defendants tried to evict a tenant with a disability for her use of emotional support animals); *United States v. Ruredy808, LLC*, Civil Action No.: 3:21-CV-192-MPM-JMV (N.D. Miss. July 10, 2023) (consent order) (injunctive relief granted to tenant with

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disabilities after owners violated the Fair Housing Act by refusing to allow the tenant to remain in his unit with his service dog).

³⁵ HUD, Office of Fair Housing and Equal Opportunity, FHEO-2020-01, Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act (Jan. 28, 2020) ("Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.") available at www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf; *Frechtman v. Olive Exec. Townhomes Homeowner's Ass'n*, 2007 U.S. Dist. LEXIS 81125 (C.D. Cal. Sept. 24, 2007) (holding that allowing plaintiff's emotional support animal was a reasonable accommodation).

³⁶ Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 14, 2004) ("The housing provider may not require the applicant to pay a fee or a security deposit as a condition of allowing the applicant to keep the assistance animal.") available at www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028, 1040 (D.N.D. 2011) ("housing providers cannot impose additional fees as a condition to granting an accommodation, including accommodations for assistance animals").

³⁷ 24 C.F.R. § 100.500 (2023) ("(a) *Discriminatory effect*. A practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin. (b) *Legally sufficient justification*. (1) A legally sufficient justification exists where the challenged practice: (i) Is necessary to achieve one or more substantial, legitimate, nondiscriminatory interests of the respondent, with respect to claims brought under 42 U.S.C. 3612, or defendant, with respect to claims brought under 42 U.S.C. 3613 or 3614; and (ii) Those interests could not be served by another practice that has a less discriminatory effect"); *Tex. Dep't of Hous. and Comm. Affairs v. Inclusive Comms. Project*, 135 S. Ct. 2507 (2015).

³⁸ *HUD ex rel. Loveless v. Wesley Apartment Homes, LLC*, FHEO No. 04-13-0855-8 (Jan. 18, 2017) (HUD charging landlord with discrimination after they took over a building, conducted criminal background checks on all existing tenants, and proceeded to evict or otherwise force out any tenant with any felony conviction at any time. HUD determined such a policy had a disparate impact on Black tenants and was unnecessary to achieve a substantial, legitimate, non-discriminatory interest), available at www.hud.gov/sites/documents/17LOVELESSVWESLEY.PDF. See also HUD, Office Of General Counsel, Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (Apr. 4, 2016), available at www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF; HUD, Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (June 10, 2022), available at www.hud.gov/sites/dfiles/FHEO/documents/Implementation%20of%20OGC%20Guidance%20on%20Application%20of%20FHA%20Standards%20to%20the%20Use%20of%20Criminal%20Records%20-%20June%2010%202022.pdf.

³⁹ See *Id.*

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⁴⁰ 24 C.F.R. § 100.500(b) (a legally sufficient justification exists where the challenged practice is necessary to achieve one or more substantial, legitimate, nondiscriminatory interests and where those “interests could not be served by another practice that has a less discriminatory effect”); see HUD, Office Of General Counsel, Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (April 4, 2016), *available at* www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF; see also *Kline v. 1500 Massachusetts Ave. Apartment Corp.*, 439 F.2d 477, 480 (D.C. Cir. 1970) (recognizing that landlords have options to safeguard tenants through the use of security cameras, lighting, and locks).

⁴¹ See 34 U.S.C. § 12495 (right to report crime and emergencies from one’s home).

⁴² In very limited circumstances, the Fair Housing Act exempts owner-occupied buildings with no more than four units, single-family houses sold or rented by the owner without the use of an agent, and housing operated by religious organizations and private clubs that limit occupancy to members. HUD, Office of Fair Housing and Equal Opportunity, Know Your Fair Housing Rights When You Are Facing Eviction, *available at* www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_act_overview. See also 42 U.S.C. §§ 3603(b); 3607(a) and (b).

⁴³ See, e.g., List of HUD Programs Subject to Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, *available at* www.federalregister.gov/d/06-6516; HUD Guidance on non-discrimination and equal opportunity requirements for public housing agencies, *available at* www.hud.gov/sites/documents/PIH2011-31.PDF.

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