



# Fair Housing Fundamentals:

4 Ways To Reduce Risk and  
Stay Compliant in 2024



The apartment industry has never seen a hiring challenge like it's facing right now. Companies of all sizes and in every market are bringing on new associates at a record pace. These new employees often come from industries outside of property management and have little to no understanding of Fair Housing and its crucial implications.

In this case, employers must be sure that these staff members are properly trained on myriad Fair Housing situations and how they can be applied to the fluid nature of their day-to-day interactions with current and prospective residents.

Legal and financial implications can be significant for companies that do not have proper Fair Housing policies and training initiatives in place.

This ebook will address four critical Fair Housing topics:

- **COVID-19-Related Disabilities**
- **Emotional Service Animals (ESA)**
- **The Violence Against Women Act (VAWA)**
- **Sexual Harassment**

Beyond the content in this ebook, Grace Hill can help you with training and up-to-date Fair Housing policies that can improve your operational compliance in these areas and more.

# 1. COVID-19-Related Resident Disabilities

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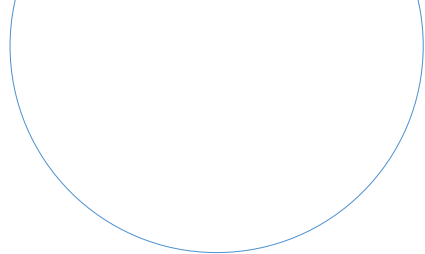
People with disabilities face particular challenges regarding housing and have special protections under Fair Housing law. Disabilities include both physical and mental impairments. It may not always be obvious that someone has a disability, which can make complying with Fair Housing law in this area a little tricky.

For people with disabilities to fully enjoy their homes in your community, you may need to make changes to community rules, policies, procedures, services, or physical structures. These changes are called reasonable accommodations and modifications.

There is a significant limitation with tracking, quantifying, or reporting the number of reasonable accommodation requests directly resulting from COVID. That limitation exists because the reasonable accommodation process prohibits managers from asking for disability-related reasons or needs but not the disclosure of the actual disability or medical diagnosis.

Apartment communities can anticipate that there will be an influx of requests related to breathing or “respiratory” or “pulmonary” impairments caused by the pandemic. There has also been some recent evidence to suggest that “long COVID” can cause cognitive, behavioral, and psychological problems. Property management staff can expect to see a number of requests related to those issues.





The types of requests resulting from these issues could be anything from requests for first-floor apartments, apartments without stairs, apartments with more windows, removing window limiters, live-in aides, and apartment transfers to larger apartment homes (to accommodate a live-in aide or medical equipment), replacing carpet with non-carpet flooring, and assigned parking spaces. Residents might also request that AC units and air purifiers be installed and make increased requests to change out heating and AC unit filters.

Having policies and training in place to address potential COVID issues can help prepare your management staff for potential requests for reasonable accommodations and ensure your community is compliant.



## 2. Sexual Harassment

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While harassment of any kind is illegal, sexual harassment warrants special consideration. Every year, thousands of people – primarily women – face unwelcome comments and requests for sexual favors from property owners, property managers, maintenance workers, and security guards.

The situation has gained the attention of the U.S. Department of Justice (DOJ). In 2017, DOJ announced an initiative to combat sexual harassment in housing. Since then, over \$1 million has been awarded to victims of sexual harassment in housing.<sup>1</sup>

HUD (U.S. Department of Housing and Urban Development) and the DOJ recognize two types of sexual harassment: quid pro quo sexual harassment and hostile environment sexual harassment.

Quid pro quo sexual harassment is an unwelcome request or demand to engage in conduct where the submission is either explicitly or implicitly made a condition related to the terms, conditions, or privileges of the sale or rental. An unwelcome request or demand may constitute quid pro quo harassment even if the person agrees to the unwelcome request or demand.

A leasing agent telling a prospective resident that she'll waive his application fee if he goes on a date with her is an example of quid pro quo sexual harassment. While this may seem like a joke or harmless behavior, it is illegal.

Hostile environment sexual harassment is unwelcome conduct that is sufficiently severe or pervasive enough to interfere with the use or enjoyment of the apartment home or other facilities. Determining a hostile environment depends on many factors, including the nature, severity, frequency, duration, context, and location of the conduct.



<sup>1</sup><https://www.justice.gov/opa/pr/justice-department-secures-settlement-sexual-harassment-lawsuit-against-michigan-landlord>

### 3. Violence Against Women Act

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The Violence Against Women Act, or VAWA, was signed into law in 1994. The first federal law of its kind, VAWA took a comprehensive approach to combat domestic violence, sexual assault, and stalking by creating provisions to hold offenders accountable and funding local programs that provide services to victims.

Because lawmakers have recognized that domestic violence is a frequent cause of homelessness and housing discrimination, some of VAWA's amendments focus on providing housing protection to survivors of violence.

Individuals may not be evicted from or denied housing or assistance because they are survivors of domestic violence, dating violence, sexual assault, or stalking.

It's a common misconception that the Violence Against Women Act only protects women. In fact, VAWA is much more inclusive than that.

It protects survivors of domestic violence, dating violence, stalking, and sexual assault, without regard to sex, sexual orientation, gender identity, and other characteristics protected by Fair Housing law.

VAWA does not cover guests in the apartment home or unlawful occupants of the apartment home. However, certain conditions do apply: A resident with a disability may request VAWA protection if their live-in aide is a survivor of violence. This may be a reasonable accommodation, and the resident may not be evicted or have their assistance terminated based on an incident of domestic violence, dating violence, sexual assault, or stalking directed at their guest.



## 4. Emotional Service Animals (ESA)

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One of the most common accommodation requests from residents is the allowance for animals that community rules would otherwise restrict. The Fair Housing Act (FHA) uses the broad term “assistance animal” to describe any animal that works, provides assistance, performs tasks, or provides emotional support for a person with a disability. Service animals are one type of assistance animal. Service animals are dogs that have been trained to perform specific functions related to a disability. Emotional support animals (sometimes called companion animals) are also assistance animals. Emotional support animals are not trained to do work and can be any type of animal commonly kept in households.

The Americans with Disabilities Act (ADA) uses the term “service animal” and defines it specifically as a dog that has been individually trained to do work or perform tasks for people with disabilities. Emotional support animals, companion animals, and animals other than dogs are not considered service animals under the ADA.



### **Consider these important takeaways:**

- You cannot deny a reasonable accommodation request because an animal does not meet the ADA definition of a service animal. Under the FHA and Section 504, reasonable accommodations must be granted for assistance animals, which include service animals, emotional support animals, and companion animals.
- Residents making accommodation requests are not required to use specific terminology. If an animal works, assists, or performs tasks for the benefit of a person with a disability or provides emotional support that alleviates one or more symptoms or effects of a person's disability, it doesn't matter what term someone uses. It is an assistance animal under the FHA and Section 504.



### **In January 2020, HUD released new guidance to help navigate these requests.**

#### **New best practices include:**

- One procedure for evaluating requests for service animals (consistent with ADA guidance).
- A different procedure for evaluating other assistance animals, like companion or emotional support animals.
- Consideration of the type of assistance animal.

Because legislation changes rapidly, it's important that your policies, procedures, and training practices are updated with the latest guidelines. Grace Hill has a team that manages this for our clients, proactively updating policies as guidelines and best practices evolve.





## Summary

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Fair Housing is one of the most widely researched topics in our industry, and Grace Hill is a trusted provider of this critical information through our renowned training curriculum and policy management software. Documented, organized, and up-to-date policies combined with comprehensive training courses can help your staff fairly serve residents while mitigating risk in your property portfolio.

**Learn more about Fair Housing  
and Grace Hill's learning and policy  
management solutions today!**