How Might the Fair Housing Act Impact Campus Housing of the Future?

Eric Luskin – The Scion Group
Kathy Bush Hobgood – Clemson University
Steve Waller – Louisiana State University
Did you know. . .

✓ ACUHO-I Foundation funds have supported the continuing education of many individuals in housing and residence life profession.

✓ More than $2 million has been donated to the Foundation to support programs, services, scholarships, and resources.

✓ Your involvement, participation and contribution paves the way for the future of ACUHO-I and of the profession.
Ways in Invest in the Future of the Profession...

**Time:**
Volunteer to serve on a Foundation committee.

**Talent:**
Share your unique skills to increase awareness and help produce donations.

**Treasure:**
Consider making a donation, becoming a Major Donor, or committing to a monthly pledge.

Stop by the Foundation Booth to learn more, participate in a raffle or our silent auction, and purchase a duck for the duck race!
Eric Luskin, Senior Vice President, The Scion Group

Certified Property Manager®. 25 years on campus. 13 years as a Principal with Scion, responsible for the national consulting practice, with work on 150 campuses throughout North America. Coordinate Fair Housing training for staff operating 20,000+ beds in 21 campus markets. Chair, ACUHO-I Certificate in Occupancy Management Committee. Board of Advisors to “The Fair Housing Coach”.
Presenters

Kathy Bush Hobgood, Director of Residential Life, Clemson University

21 years in Housing & Residential Life, Advocate for student accommodations, Responsible for Policy Design, Compliance Strategies and Collaboration with campus partners and stakeholders. Active in Professional Associations and believer in the role that they can and do play in moving the profession forward. Frequent ACUHO-I committee and task-force member. Talking Stick Author. SEAHO 2015-16 President.
Steve Waller, Executive Director of Residential Life & Housing, Louisiana State University

18 years in Residential Life and Housing, with last 8 as CHO at LSU. 40 years in facility management and active in ACUHO-I: Executive Board Director of Facilities and Physical Environment, Chair of Housing Facilities Committee, Chair of Public Policy Committee. Advocate for ADA and strategic planning for optimum use of resources to serve residents and profession. Expertise in FHA history and compliance in on-campus housing.
Overview

• Fundamentals
• Current Legal Landscape
• Key Elements of Internal Policies
• Future Challenges and Issues
• Discussion and Q&A
The Fair Housing Act: Impact on Future Campus Housing

It’s been the law of the land for 47 years…

Who is listening?
Americans with Disabilities Act

ADA applies in areas of public accommodation (on and off campus)

- Ensures accessibility to facilities and program
- Section 504
  - Governmental Agencies
  - Public and Private Education
- Advocates expertise to other agencies: HUD, DOT, DOE
Fundamentals:

Americans with Disabilities Act

ADA applies in areas of public accommodation (on and off campus)

Also recognizes only service animals:
Trained dog or miniature horse that serves a person with a disability
Fundamentals: The Fair Housing Act

FHA applies to housing (on & off campus)

Recognizes assistance animals for individuals who are disabled
- No training required
- No restriction on type of animal

Recognized by DOJ/ADA as functional expert with authority to regulate

Identifies seven protected classes
On April 11, 1968, just seven days following the assassination of Dr. MLK, President Johnson signed the Civil Rights Act of 1968.
Fundamentals: The Fair Housing Act

• Seven protected classes under federal law:
  - 1968 (4)
  - Religion
  - Race
  - Color
  - National Origin
  - 1974 (5)
  - Sex (gender)
  - 1989 (7)
  - Handicap (disability)
  - Familial Status

• Steering applies to all protected classes

• Construction standards if first occupied since 1991

Red = future trend impacting campus housing…
Current Legal Landscape: Campus Compliance

**Enforcement –**

- Department of Housing & Urban Development
- Department of Justice

- Numerous “partner agencies”
Current Legal Compliance: Campus Compliance

Partner agency perspective: Find victims!
I found the perfect apartment near a park and public transportation. I asked for a reasonable accommodation for my service dog, but the landlord told me “no pets – try someplace else.” So I called HUD and found out it’s illegal for a housing provider to prohibit assistance animals. I filed a complaint, and now my dog and I have a great place to live.

**Fair Housing Is Your Right.**

**Use It.** Visit [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing) or call the HUD Hotline 1-800-669-9777

A public service message from the U.S. Department of Housing and Urban Development in partnership with the National Fair Housing Alliance.
Current Legal Landscape: Case Studies
Current Legal Landscape: Case Studies

This ruling probably impacts all residential institutions of higher education…
Current Legal Landscape: Case Studies
Current Legal Landscape: **Case Studies**

And an update from just last Fall…
Key Elements for Internal Policies

Reasonable requests –

• Partnership with Student Disability Services is key
• Safety elements
• Undue burdens
Key Elements for Internal Policies

Communication –

• *Initial training and resource sharing*
• *Annual training*
• *Regular updates when there are shifts, additions and changes*
Key Elements for Internal Policies

**Process –**

- *Where processes live*
- *Clarity of trigger points in approval processes*
- *Smaller decision making circles*
Future Challenges / Issues

Trends to track -

• Will others challenge legal interpretations?

• Will former tenants that have been denied accommodations come back to file complaints?
Future Challenges / Issues

Trends to track -

• Regarding Handicapped, balancing laws (504, ADA, FHA) with people, programs and facilities
• The prevalence of assistance animals in residence halls
• Compliance: design & construction standards
Future Challenges / Issues

Trends to track –

• Compliance with the Act when responding to applicants or residents with a child

• Steering is illegal even if your intentions are good
Trends to track –

• Structuring contracts and assignments in a per bed/person environment, while remaining compliant with the law.
Future Challenges / Issues

**Trends to track** – Familial Status: #1 challenge? Possible options:

- **Student-only policy** (but track disparate impact rulings)
- **Geographically distinguish between per unit and per person rentals**
Discussion and Q & A

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Six Tips to Avoiding Formal Complaints
(Fair Housing Act and Campus Housing)

1. Provide on-going training by Fair Housing and student housing experts
2. Treating everyone fairly is not enough; better to be consistent and equal
3. Take all requests for reasonable modifications or accommodations seriously; respond in a timely manner; don’t ask unnecessary questions
4. Don’t be confrontational or bureaucratic; instead, use an interactive process to seek solutions
5. No steering based on a protected class
6. Respond to questions about facilities, programs and living options, but not other questions about protected classes