

# UNDERSTANDING HUD'S FAIR HOUSING COMPLAINT PROCESS



*Presented by:  
Kristina Miller  
HUD Office of Fair Housing & Equal Opportunity*

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## The Complaint Process



- ☞ Intake - Determines Jurisdiction
- ☞ Investigation - Determines Cause or No Cause
- ☞ Conciliation - Settles the Complaint
- ☞ Charge - Initiates an Administrative Action

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## INTAKE-DETERMINES JURISDICTION



- ☞ Jurisdiction means the ability to apply the law to a complaint.
- ☞ The Office of Fair Housing can only investigate jurisdictional complaints, which are complaints covered by the laws we enforce, such as the Fair Housing Act, Section 504 and Title VI.

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**KEY ELEMENTS OF JURISDICTION  
UNDER THE FAIR HOUSING ACT**



- ☞ **Complainant**-Person and/or entity who's been harmed/injured by a discriminatory housing act
- ☞ **Respondent**-Person and/or entity who allegedly committed a discriminatory housing act
- ☞ **Issue**-Type of housing transaction, such as refusal to rent or sell, discriminatory terms and conditions in a rental, failure to reasonably accommodate a disability, discriminatory mortgage lending

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**KEY ELEMENTS OF JURISDICTION  
UNDER THE FAIR HOUSING ACT**



- ☞ **Basis**-Race/Color, Religion, Disability (Mental and Physical), Sex (Gender), National Origin, Familial Status (presence of children under the age of 18, pregnant female), Retaliation
- ☞ **Basis and Issue Are Connected**-Allegations that the Issue happened because of a Basis
- ☞ **Timely**-Complaint must be filed with FHEO within a year of the last alleged discriminatory housing act

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**KEY ELEMENTS OF JURISDICTION  
UNDER THE FAIR HOUSING ACT**



- ☞ **The housing involved is not exempt under the Fair Housing Act**
  - ☞ **Single Family Home exemption** - exempts certain single family homes
  - ☞ **Owner Occupied Exemption** - exempts certain owner occupied residential buildings
  - ☞ **Housing for Older Persons Act** - exempts certain housing facilities ONLY from the family status provision of the Act

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## INTAKE THE PROCESS



- ☞ Incoming calls, correspondence, e-mail are assigned to an Intake Specialist
- ☞ The Intake Specialist interviews the complainant, the person who wishes to file complaint
  - ☞ The goal of the interview is to find out what happened and to find out if the complainant alleges a basis and issue of discrimination covered under the Fair Housing Act within the one year of statute of limitations

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## INTAKE THE PROCESS



- ☞ The Intake Specialist gathers additional information from the County Assessor to determine if the property and the respondents are covered under the Fair Housing Act
- ☞ The Intake Specialist will research whether the property is federally funded to determine if other laws apply, such as Section 504 and Title VI

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## INTAKE THE PROCESS



- ☞ The Intake Specialist will review all the information gathered to determine if there is jurisdiction
  - ☞ If the complaint is **not jurisdictional**, FHEO will send the complainant a letter explaining why we are unable to investigate his or her complaint
  - ☞ If the complaint is **jurisdictional**, FHEO will draft a complaint for complainant's signature

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## INTAKE THE PROCESS



- ☞ Once the complaint is signed and received by FHEO, the complaint is filed officially and all parties are notified in writing
- ☞ The complaint is now sent to FHEO's Investigative branch or to a Fair Housing Assistance Program (FHAP) Agency for investigation

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## INVESTIGATION-DETERMINES CAUSE OR NO CAUSE



- ☞ **Cause** means the evidence gathered during the investigation revealed cause to believe housing discrimination occurred
- ☞ **No Cause** means the evidence gathered during the investigation revealed no cause to believe housing discrimination occurred

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## INVESTIGATION THE PROCESS



- ☞ The investigator interviews complainants, respondents, their witnesses and third party witnesses
- ☞ The investigator reviews leases, house rules, violation notices, termination of tenancy notices, tenant files, maintenance records and court papers
- ☞ The investigator performs follow up interviews based on information gathered throughout the investigation

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**INVESTIGATION  
THE PROCESS**

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- ❧ The investigator evaluates all evidence gathered, writes a final investigative report and drafts a letter of determination, recommending a cause or no cause finding
- ❧ FHEO management reviews the investigation and concurs on the recommended finding or requests more information

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**INVESTIGATION  
THE PROCESS**

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- ❧ HUD Legal Counsel reviews the investigation and concurs on the recommended finding or requests more information
- ❧ The FHEO Director then decides whether The Fair Housing Act has been violated and issues a letter of determination that summarizes the facts and the findings

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**CONCILIATION  
THE SETTLEMENT PROCESS**

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- ❧ Throughout the course of the investigation both parties have the option to resolve the complaint by settling it in a no fault conciliation agreement
- ❧ HUD serves as the mediator and will convey offers and counteroffers to both parties
- ❧ FHEO also represents the public

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## CONCILIATION THE SETTLEMENT PROCESS



- While FHEO is required by law to offer conciliation, the process is voluntary for the respondents and complainants
- Generally, a conciliation agreement will include a provision of remedy for the complainant and a public interest remedy, such as training or record keeping
- FHEO monitors the agreement to insure that the respondent complied with the terms of the agreement

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## A CHARGE OF DISCRIMINATION



- A Charge of discrimination is issued by HUD's Legal Counsel when there is evidence of discrimination and the parties choose not to settle the complaint in the conciliation process
- A Charge of discrimination initiates an administrative action

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## A CHARGE OF DISCRIMINATION



- Parties can elect to have their case heard in federal court
- If neither party elects this option, then the case is heard before an Administrative Law Judge (ALJ)
- In federal court, the Department of Justice tries the case. If heard before an ALJ, HUD attorneys try the case.

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# QUESTIONS?

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