

# Fair Housing, Reasonable Accommodations and Resources.



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# Ohio Private and Public Fair Housing Organizations are Resources



## PRIVATE

- Fair Housing Advocates Association -Akron- <https://www.housingassistanceonline.com>
- Fair Housing Contact Service, Inc. –Akron- <https://fairhousingakron.org/>
- Fair Housing Resource Center, Inc. –Painesville- <https://fhrc.org/>
- Housing Opportunities Made Equal, Inc. –Cincinnati- <https://homecincy.org/>
- Fair Housing Center for Rights & Research –Cleveland- <https://www.thehousingcenter.org/>

# Ohio Private and Public Fair Housing Organizations are Resources



## PRIVATE

- Miami Valley Fair Housing Center, Inc. –Dayton- [www.mvfhc.com](http://www.mvfhc.com)
- Toledo Fair Housing Center –Toledo- <https://www.toledofhc.org/>

## PUBLIC

- Ohio Civil Rights Commission –Columbus- <https://crc.ohio.gov/>
- HUD Fair Housing Office –Columbus- <https://www.hud.gov/states/ohio/working/fheo>

# Newest Ohio Private Fair Housing Organization



- **CITY OF COLUMBUS:**
- Southeastern Ohio Legal Services has a project called Appalachian Ohio Fair Housing Center
- <https://appalachianohiofairhousing.org/>
- Intake Line at [844-302-1800](tel:844-302-1800)

# Miami Valley Fair Housing Center is a Resource

Private Non-Profit operated by a Board of Community Professionals and Citizens

Located in Dayton, Ohio

*Mission: seeks to eliminate housing discrimination against all persons because of race, color, religion, national origin, sex, disability, familial status, or any other characteristic protected under state or local laws.*

## We Help people that

- Are victims of illegal discrimination related to residential real estate
- Need clarification about fair housing regulations and best practices
- Need referrals for other housing matters

## We Educate

- Realtors, Property Managers, Insurance personnel, Lending personnel Builders, Contractors, Architects, Social Workers, Nursing staff and consumers – anyone whose life or work intersects with the provision of housing

# Introduction to today's topic – Fair Housing Basics

- The Fair Housing Act applies to virtually all types of housing, public and private
- The Fair Housing Act applies to all Dwellings “used as a residence”



Fair housing laws  
prevent discrimination  
in how housing is



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sold,

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rented,

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appraised,

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financed,

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insured,

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inspected

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serviced by vendors or municipalities

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and advertised.



Fair housing laws regulate



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Property owners,

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Landlords,

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Lenders,

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Realtors,

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Appraisers,

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Newspapers/publishers &

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Municipalities

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And any business that intersects with the provision of residential housing

# Fair Housing Laws utilize named protected classes

Color

Race

Religion

Familial  
Status

Disability

National  
Origin

Sex

- Gender
- Sexual Orientation
- Gender Identity/Expression

# Common Local Protected Classes



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Age (Dayton, Toledo, Columbus and others)

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Marital Status (Dayton and others)

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Ancestry (State of Ohio)

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Military Status (State of Ohio)

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Source of Income (20 Ohio Cities and some more pending)

# Fair Housing Laws have specific Prohibitions

Refuse to sell or  
rent

Discriminate in  
the terms,  
conditions

Discriminate in  
advertising

Misrepresent  
the availability  
of housing

Engage in  
blockbusting or  
steering

**Refusing people  
w/disabilities  
accommodations**

To coerce, intimidate, threaten, or  
interfere with any person in the  
exercise or enjoyment of a fair  
housing right including Racial or  
sexual harassment

Stats introduce today's topic:

- American Survey Stats

# Poverty and People with Disabilities need accommodations often



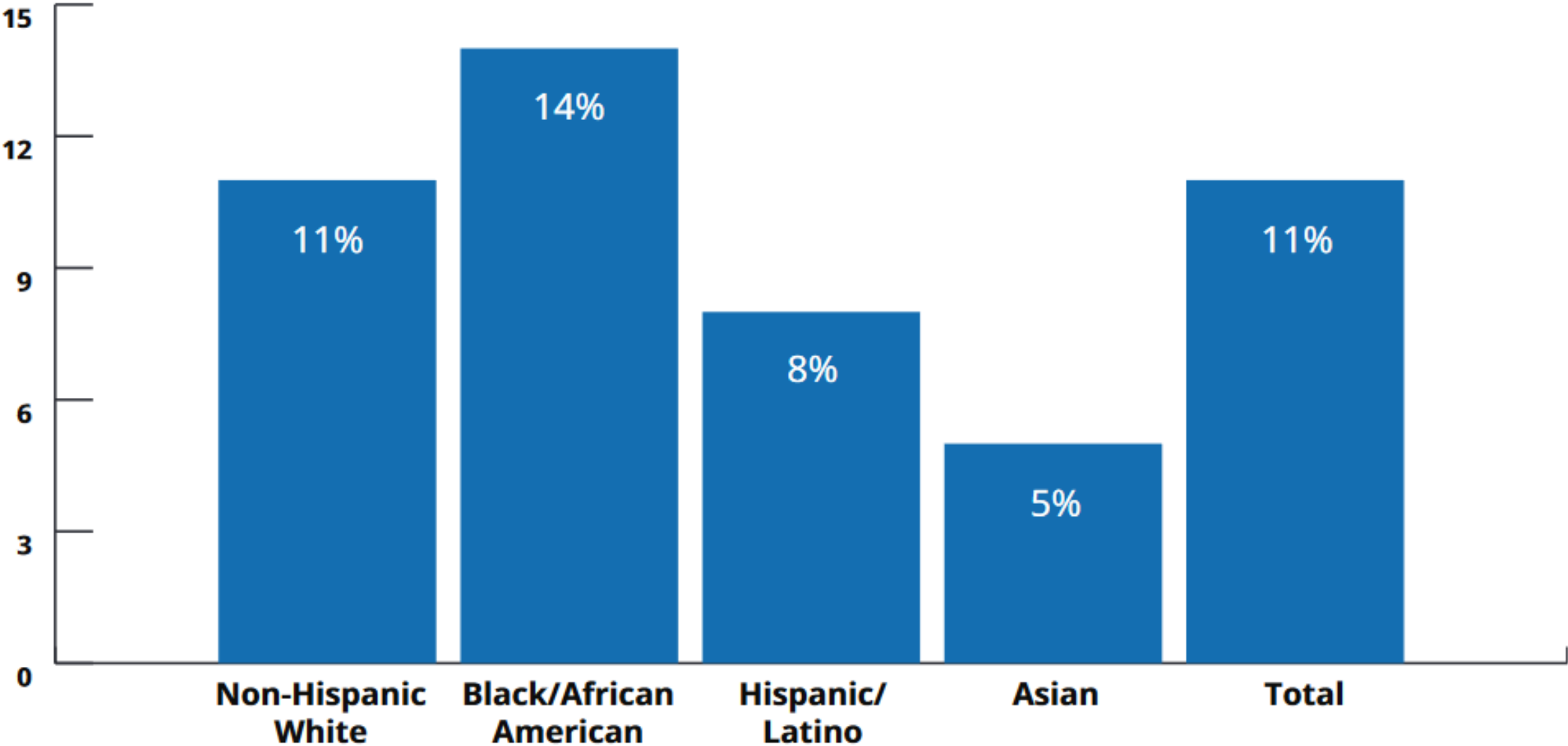
- **Poverty causes disability.**
- Children living in poverty are more likely to have:
  - asthma,
  - chronic illness,
  - environmental trauma such as lead poisoning,
  - learning problems and
  - low birth weight that leads to disabilities.

# People with a disability live in poverty at nearly three times the rate of their non-disabled peers.



- One in nine working-age adults (18-65) have a disability that may put them at risk of exclusion from the economic mainstream.
- This rate varies dramatically by race and ethnicity, and it varies even greater when disability is added to the mix.
- See the next two slides for the stats.

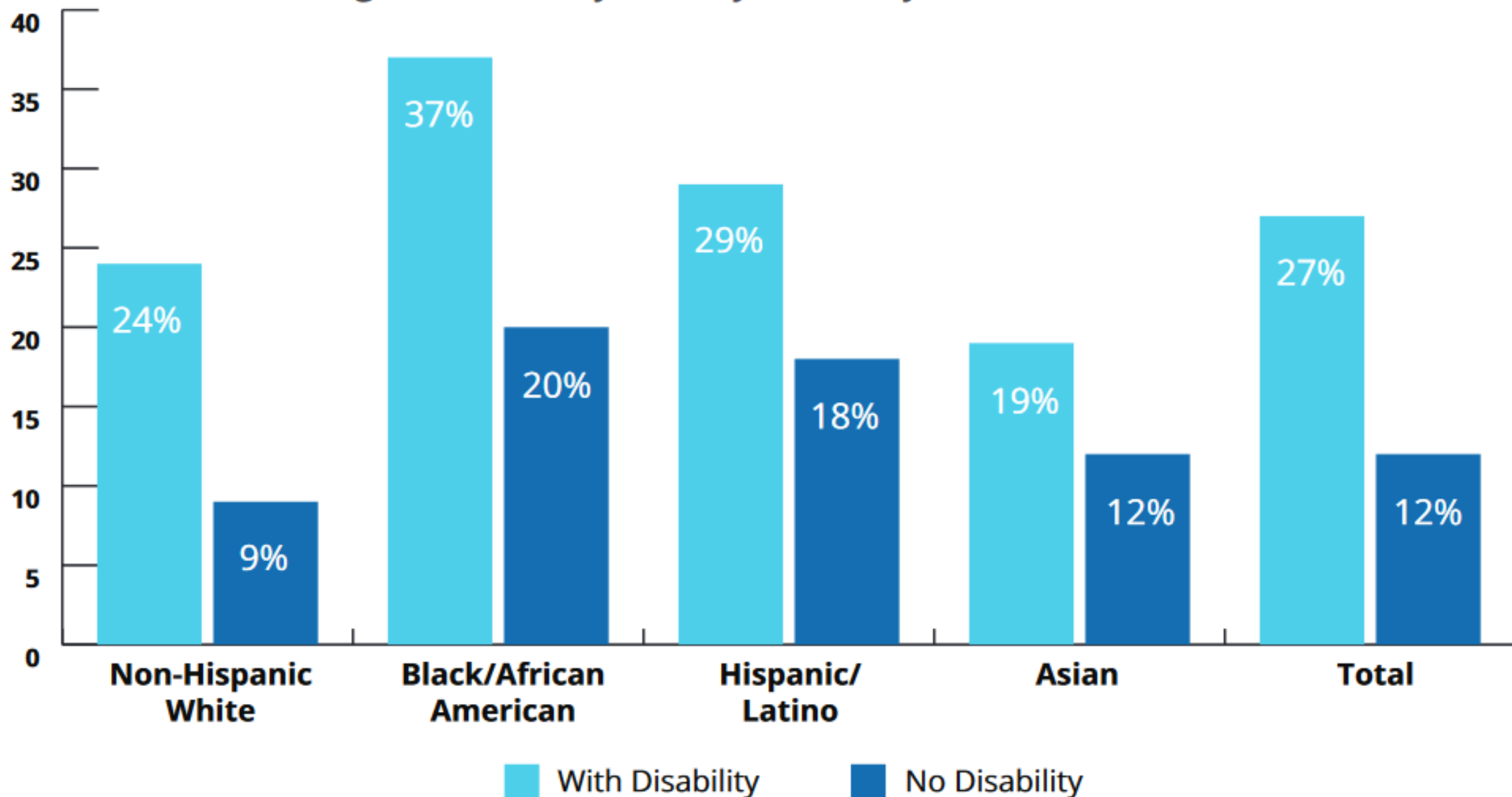
Figure 2: Prevalence of Disability by Race



Source: American Community Survey, 2015



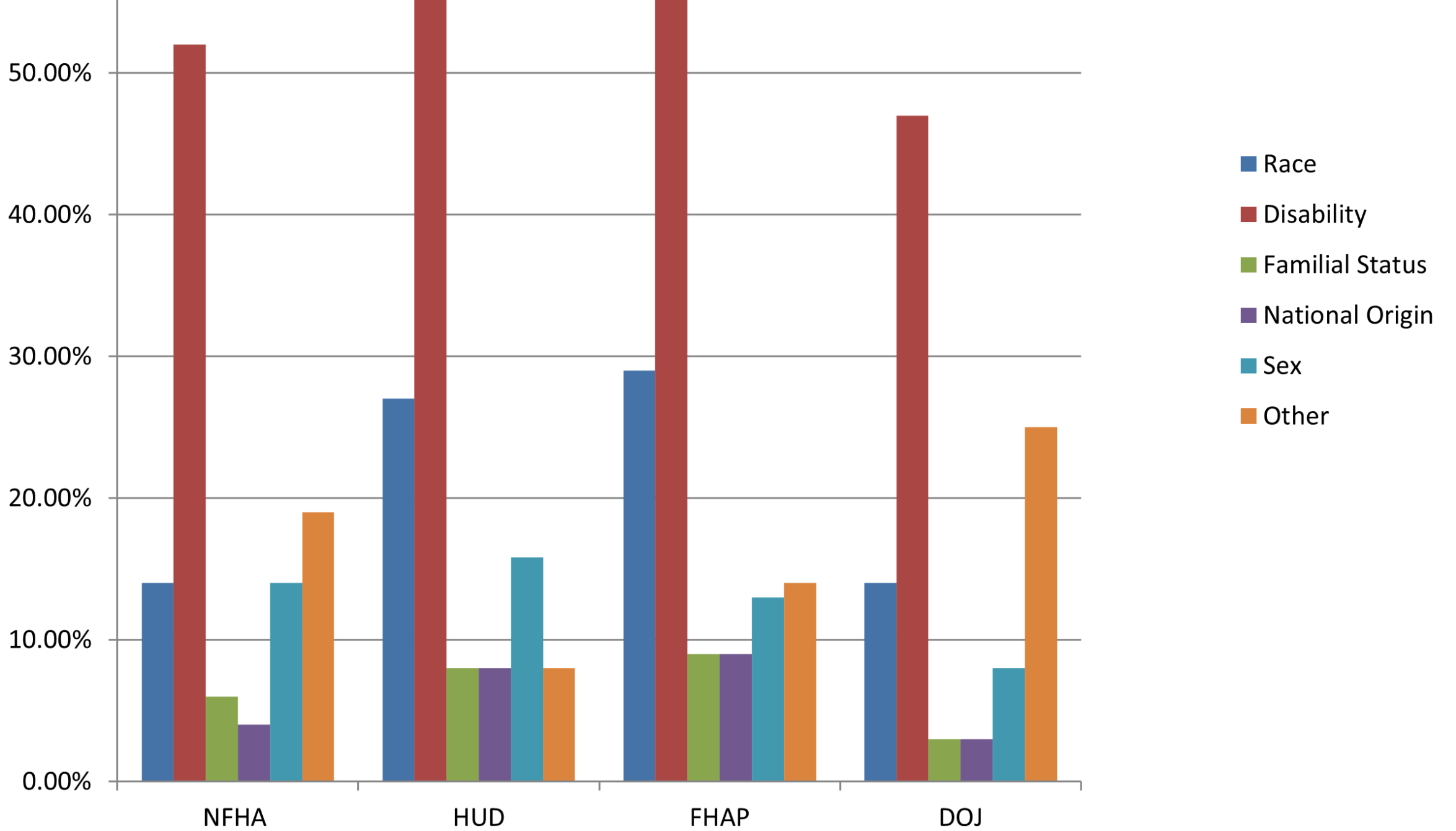
Figure 6: Poverty Rate by Disability Status and Race



Source: American Community Survey, 2015

Stats introduce today's topic:

- Fair Housing Litigation and Complaint Stats





# Notes on Report

- Complaints alleging discrimination because of
  1. **Disability:** 53.26% or 17,580 up
  2. **Race:** 17.63% or 5,819 steady
  3. **Sex:** 7.54% or 2,490 up
  4. **Familial status:** 6.50% or 2,147 down
  5. **National Origin:** 4.95% or 1,653 down
  6. **Other:** 17.03% or 5,622 up by 3%, highest gain

Today's topic:

## Main lines of litigation surging Disability to the top

- **Failure to construct** new multi-family homes (4 or more units under one roof) in compliance with the Design and Construction requirements of fair housing regulations.
- **Denial of requests for exceptions** to rules, policies, procedures, and denial of requests for structural changes such as grab bars, ramps, and extra railings.



# Should Municipalities figure out a way to promote and monitor the FH Act Design and Construction Requirements?

- Best Practices say yes:
  - Keeps jurisdiction in compliance with Section 504...
  - Helps local jurisdictions stay in compliance with their obligation to Affirmatively Further Fair Housing
  - Helps to mitigate discrimination that lasts for over 100 years for every unit that is built out of compliance





# Accessibility, Design and Construction Guidelines\*

- 1) Units must have an accessible entrance and must be on an accessible route;
- 2) Public and common-use areas must be accessible;
- 3) The doors within units must be usable doors;
- 4) There must be an accessible route into and through the unit;
- 5) Light switches, electrical outlets and environmental controls must be accessible;
- 6) Bathrooms must have reinforced walls; and
- 7) Kitchens and bathrooms must be usable. In buildings without elevators only first floor units need to comply. In buildings with elevators every unit must comply.

see <http://www.fairhousingfirst.org/>

\* for all units in new elevator buildings and ground floor units in new multi-family construction w/o elevators

# Trend of not complying with requests for Exceptions Ensuring People with Disabilities are Welcomed

Definition



Reasonable Accommodations and Reasonable  
Modifications



# Use the correct definition, for the correct situation



- Definition for purposes of reasonable accommodations:
  - Has a physical or mental impairment that substantially limits one or more major life activities;
  - Has a record of such an impairment; or
  - Is regarded as having such impairment.
- This definition tells us first – who can get relief through a complaint; and second – who can ask and receive a reasonable accommodation & or modification under current FH laws.

# Use the correct definition, for the correct situation



- Definition for Eligibility in most federal housing programs designated for people with disabilities:
- **A person with disabilities** is a person who is disabled as defined in 42 U.S.C. 423 (the Social Security definition);
  - is determined to have a physical, mental or emotional impairment that is expected to be of long-continued and indefinite duration;
  - is substantially impeded in his or her ability to live independently;
  - is of such nature that the ability to live independently could be improved by more suitable housing conditions; or
  - has a developmental disability as defined in 42 U.S.C. 6001.

# Physical impairment includes:



any physiological disorder or condition

cosmetic disfigurement

anatomical loss affecting specific body systems.

Mental  
impairment  
includes:



mental retardation

organic brain syndrome

emotional or mental illness

specific learning difficulties



# Major life activities means:

Caring for one's-self

Performing manual tasks

Walking

Seeing

Hearing

Speaking

Breathing

Learning

Working

Attending School

# Important Feature of Disability Definition under the Fair Housing Act

- The Fair Housing definition of disability is used to assess requests for exceptions, called Reasonable Accommodations and/or Reasonable Modifications





# RA/RM Defined

- Accommodations are **changes in the rules, services, practices or policies** that allow individuals with disabilities equal enjoyment of housing, but do not change the nature of the program.
- Modifications are **changes to the physical characteristics** of a residence or to the common areas of a building.



## Requests for RA/RM's:

- Housing Providers and Municipal staff should conduct assessments on a case-by-case basis – cannot have a “one size fits all approach” – individualize!
- Both parties must enter into interactive dialogue.
  - advocates can be a positive force to facilitate this



# Joint Statement says:

- A provider has an obligation to provide **prompt responses** to reasonable accommodation requests.
- An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.





# Flexibility is Key to RA/RM

- In some cases, the assessor must consider alternative criteria as a reasonable accommodation to enable an applicant with a disability to establish eligibility.
- Some people with disabilities may have special needs due to their disabilities, so simply treating them the same as others may not ensure that they have an **equal opportunity to use and enjoy the housing** which is a cornerstone of fair housing best practices.

# Reasonable Modification (RM)

- A change to the physical characteristics of a residence or to the common areas of a building including:
  - Installing a ramp.
  - Installing grab bars.
  - Widening doorways.
  - Installing a lift.





# Reasonable Accommodation (RA)

- Changes in rules, services, practices or policy that do not change the nature of the program such as:
  - Allowing a working or therapy animal.
  - Providing a payment reminder.
  - Providing reserved accessible parking.
  - Waiving the process for conditional use permits
  - Assisting people with barriers to complying with rules around situations with, e.g. water service or trash pickup.

# Guidance on Third Party Verification Source for Reasonable Accommodation Requests

- 2004 General Guidance for RA's from the Joint Statement (HUD/DOJ)
  1. “Doctor/Medical professional
  2. Non-Medical Service Provider
  3. Peer Support Group or
  4. “a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability.”



# When does a situation warrant a 3<sup>rd</sup> party Verifier?



- “If a person's **disability is obvious**, or otherwise known to the provider, and if the **need** for the requested accommodation **is** also readily **apparent** or known, then the provider **may not request** any additional information about the requester's disability or the disability-related need for the accommodation.
- If the requester's disability is known or readily apparent to the provider, but the need for the accommodation **is not readily apparent** or known, the provider **may request** only information that is necessary to evaluate the disability-related need for the accommodation.”



# Processing a Request for RA/RM

- Developing a standard procedure is a best practice
- Keep in mind what needs to be clear:
  - You are happy to process the request for a disability-related need
  - Forms that can be used to facilitate the request
  - What exactly is being requested?
  - Does request warrant a third-party verification?
  - When a decision will be made if not made at time of request
  - **Talk about Who pays – private most time tenants pay, most public and subsidized housing, the providers pay**

# Santa Rosa City Code: Best Practices

- **A request for reasonable accommodation** may be made by any person with a disability, their representative or any entity, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities.



- See <https://srcity.org/200/Americans-With-Disabilities-Act#BR>



# Processing a Request for RA/RM

Developing a standard procedure is a best practice

Keep in mind what needs to be clear:

- You are happy to process the request for a disability-related need
- Forms that can be used to facilitate the request
- What exactly is being requested?
- Does request warrant a third-party verification?
- Who pays
- When a decision will be made if not made at time of request

Other allowable requirements particular to your process

\* E.g. your firm prefers to do construction to keep costs down

## Making the Request for an accommodation/modification both Joint Statements say:



Fair Housing Act does not require that a request be made in a particular manner or at a particular time.



Request does not need to mention the Act or use the words "reasonable accommodation."



Can be made by requester or third-party requester can be made orally or in writing, (does not have to use provider's preferred forms)



"Under the Act, a resident or an applicant for housing makes a reasonable accommodation request whenever she makes clear to the housing provider that she is requesting an exception,"