

*The following Model Fair Housing Policy has been drafted by the New Jersey Division on Civil Rights to reflect housing protections set forth in the New Jersey Law Against Discrimination, N.J.S.A. § 10:5-1 to -49 (LAD), the Fair Chance in Housing Act, N.J.S.A. § 46:8-52 to -64 (FCHA), and federal Fair Housing laws. This Model Fair Housing Policy can be used by housing providers as a resource in creating their own fair housing policies.*

### **Model Fair Housing Policy**

It is the policy of [name of housing provider] to comply with the New Jersey Law Against Discrimination (LAD), N.J.S.A. § 10:5-1 to -49, and the Fair Chance in Housing Act (FCHA), N.J.S.A. § 46:8-52 to -64 (effective January 1, 2022).

#### **LAD:**

In compliance with the LAD, [name of housing provider] ensures that all housing, as well as all terms, conditions, and privileges associated with such housing, are available to all persons without regard to actual or perceived race, creed, religion, color, national origin, nationality, ancestry, pregnancy or breastfeeding, sex, gender identity or expression, sexual orientation, familial status (defined as having care or custody of a child under age 18 or being pregnant), disability, liability for service in the Armed Forces of the United States, marital status, civil union status, or domestic partnership status. The LAD also prohibits housing discrimination based on the source of lawful income used for rental or mortgage payments (including Section 8 housing choice vouchers, COVID-19 Emergency Rental Assistance Program (CVERAP), State Rental Assistance Programs (SRAP), temporary rental assistance (TRA), Eviction Prevention Program (EPP), unemployment benefits, child support, alimony, and supplemental security income.

This policy means that, among other things, the owners and operators of [name of housing provider] do not discriminate against persons in any aspect of the sale, rental, or occupancy of housing on the basis of their actual or perceived membership in an LAD-protected category or their association with someone who is a member of an LAD-protected category, or their source of lawful income. Specifically, they do not and will not:

- A. Refuse to sell or rent, refuse to negotiate the sale or rental of, or otherwise make housing unavailable to any person on the basis of an LAD-protected category;
- B. Discriminate against any person in the terms, conditions, or privileges of sale, rental, or occupancy, including cost of rental, on the basis of an LAD-protected category;
- C. Evict or decline to renew the lease of any tenant on the basis of an LAD-protected category;
- D. Make, print, or publish any statement, including print advertisements and online postings, expressing any preference for, limitation of, or discrimination based on an LAD-protected category;
- E. Represent to any person that any dwelling is not available for inspection, rental, or sale, when the dwelling is in fact available, based on an LAD-protected category;



- F. Steer persons away from their desired housing, or represent that a neighborhood is changing in a way that could lower property values, increase crime, or lower the quality of public services, including schools, because of an LAD-protected category;
- G. Refuse to rent to a prospective tenant or discourage a prospective tenant from renting because they plan to pay with Section 8 housing choice vouchers, COVID-19 Emergency Rental Assistance Program (CVERAP), SRAP (State Rental Assistance Program), TRA (temporary rental assistance), Eviction Prevention Program (EPP), or any other subsidy or voucher provided by federal, state, or local rental-assistance programs; or other sources of income including unemployment benefits, child support, alimony, and supplemental security income; or express any such limitation or refusal in any printed advertisement, oral or written statement, or online posting (for example, statements like “No Section 8,” “TRA not accepted,” or “This property not approved for Section 8” are all prohibited);
- H. Condition a person’s housing, or any of the terms, conditions, or privileges thereof, on acceptance of unwanted sexual advances or requests for sexual favors, or engage in unwanted, harassing conduct of a sexual nature that creates an intimidating, hostile, or offensive housing environment, or permit others to do so;
- I. Engage in unwanted, harassing conduct based on any LAD-protected category that creates an intimidating, hostile, or offensive housing environment, or permit others to do so;
- J. Undertake any of the actions listed in subsections (A) through (I) based on the person’s perceived membership in an LAD-protected category or their association with someone who is an actual or perceived member of an LAD-protected category;
- K. Impose unreasonable occupancy restrictions to prevent families with children from moving in;
- L. Refuse to grant reasonable accommodations and reasonable modifications to a person with a disability as explained further in Addendum A;
- M. Selectively inquire about, or request information about and/or documentation of, a prospective tenant’s or buyer’s immigration or citizenship status because of the person’s actual or perceived national origin, race, or ethnicity;
- N. Fail to account for a person’s receipt and use of rental assistance (such as Section 8 housing choice vouchers, SRAP, or TRA, EPP, unemployment benefits, child support, alimony, or supplemental security income) when applying minimum income requirements to a person’s rental application (any minimum income requirement, financial standard, or income standard must be calculated based only on the portion of the rent to be paid by the tenant, rather than the entire monthly rent).
- O. Violate the U.S. Department of Housing and Urban Development’s April 2016 Guidance by imposing blanket exclusions on all individuals with any prior arrest or conviction; or

use criminal history as a pretext for intentionally discriminating on the basis of race or national origin.

FCHA:

In compliance with the FCHA, [*name of housing provider*] affirms that they will not inquire into applicants' criminal histories on initial application materials, or otherwise consider applicants' criminal records in any way, until after a conditional housing offer has been made, except for convictions of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing, or if the applicant is subject to a lifetime registration on a state sex offender registry.

Nothing about the FCHA requires landlords or housing providers to consider a person's criminal record in housing. If a housing provider does review an applicant's criminal history after a conditional offer, specific restrictions apply. A housing provider must conduct an individualized analysis of an applicant's criminal record and may only deny housing if withdrawing a conditional offer is necessary to fulfill a substantial, legitimate, and nondiscriminatory interest.

[*Name of housing provider*] will also comply with the FCHA as follows:

- [*Name of housing provider*] will not consider certain types of criminal histories at all, including arrests or charges that did not result in a criminal conviction, expunged convictions, convictions erased through executive pardon, vacated and otherwise legally nullified convictions, juvenile adjudications of delinquency, and sealed records.
- If [*Name of housing provider*] chooses to consider an applicant's criminal history after a conditional offer, they will only consider:
  - Convictions for murder, aggravated sexual assault, kidnapping, arson, human trafficking, sexual assault, endangering the welfare of a child in violation of N.J.S.2C:24-4(b)(3);
  - Convictions for any crime that requires lifetime state sex offender registration;
  - Any 1<sup>st</sup> degree indictable offense, or release from prison for that offense, within the past 6 years;
  - Any 2<sup>nd</sup> or 3<sup>rd</sup> degree indictable offense, or release from prison for that offense, within the past 4 years; or
  - Any 4<sup>th</sup> degree indictable offense, or release from prison for that offense, within the past 1 year.
- If [*Name of housing provider*] finds one of the aforementioned records in the applicant's criminal history, [*Name of housing provider*] will conduct an individualized assessment based on the following factors to determine whether withdrawal of a conditional offer would fulfill a substantial, legitimate, and nondiscriminatory interest:
  - Nature and severity of the offense(s)
  - Applicant's age at the time of the offense(s);
  - How recently the offense(s) occurred;
  - Any information the applicant provided in their favor since the offense(s);

- If the offense(s) happened again in the future, whether that would impact the safety of other tenants or property; and
- Whether the offense(s) happened on, or was connected to, property that the applicant had rented or leased
- If [*Name of housing provider*] intends to consider criminal history as provided for under the FCHA after a conditional offer, they will not accept application fees before disclosing that fact to the applicant, and offering the applicant an opportunity to provide evidence of potential inaccuracies in their criminal record, other evidence of rehabilitation, or mitigating factors. This requirement can be fulfilled using the Model Disclosure Statement on DCR's website, found at [https://www.njoag.gov/wp-content/uploads/2021/12/Model-Disclosure-Statement\\_12.14.21.pdf](https://www.njoag.gov/wp-content/uploads/2021/12/Model-Disclosure-Statement_12.14.21.pdf).
- If [*Name of housing provider*] withdraws a conditional offer based on an applicant's criminal record, they must explain in writing their justification for doing so, which can be fulfilled using the Model Notice of Withdrawal on DCR's website, found at [https://www.njoag.gov/wp-content/uploads/2021/12/Model-Notice-of-Withdrawal\\_12.15.21.pdf](https://www.njoag.gov/wp-content/uploads/2021/12/Model-Notice-of-Withdrawal_12.15.21.pdf). An applicant can then request the information the housing provider relied upon, and can submit mitigating information or inaccuracies related to aspects of their criminal record which may be considered under the FCHA, which the housing provider must then consider.
- [*Name of housing provider*] will not discriminate against those with criminal records in any advertising, notices, or publications. [*Name of housing provider*] also will not require applicants to submit to drug or alcohol testing, or to provide information from a treatment facility.
- If [*name of housing provider*] utilizes any vendor or outside person or entity to conduct a criminal record check on their behalf, [*name of housing provider*] shall take reasonable steps to ensure that the vendor or outside person or entity is conducting the criminal record check consistent with the requirements of the FCHA. [*Name of housing provider*] will be liable under the FCHA for relying on a criminal history inquiry conducted by a vendor or outside person or entity that is conducted in violation of the FCHA if it failed to take reasonable steps to ensure compliance. Specifically, if [*name of housing provider*] receives a criminal history inquiry conducted by a vendor or outside person or entity that is conducted in violation of the Act in that it reveals a record that is not permitted to be considered under the Act, [*name of housing provider*] must show that it did not rely on that information in making a determination about the applicant's tenancy.

Any agent, employee, or designee of [*name of housing provider*] who fails to comply with this policy will be subject to appropriate disciplinary action. Please report any violation of this policy to [*name and contact information for employee to whom complaints regarding a violation should be directed*].

You cannot and will not be subjected to retaliation for making a complaint under this policy or for attempting to exercise your rights under this policy, the LAD, or the FCHA.

Any action taken by [*name of housing provider*]'s agent, employee, or designee in violation of the requirements laid out in this policy may constitute a violation of the LAD and/or the FCHA. Any tenant or applicant who believes that any owner, agent, employee, or designee of [*name of housing provider*] has violated any of the above may contact the New Jersey Division on Civil Rights at [www.NJCivilRights.gov](http://www.NJCivilRights.gov) or (866) 405-3050. A complaint must be filed with the New Jersey Division on Civil Rights within 180 days of the allegedly discriminatory conduct. DCR has a number of fair housing fact sheets that are available at <https://www.nj.gov/oag/dcr/housing.html>.

DCR Model Fair Housing Policy

**Addendum A: Reasonable Accommodations and Modifications  
for Persons with a Disability**

[*Name of housing provider*] will grant reasonable accommodations to its rules, policies, practices, procedures, or services when such accommodations are necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling and when the accommodation will not cause an undue hardship to [*name of housing provider*]'s operations. Some examples of what may constitute a reasonable accommodation include allowing a third party to co-sign a lease or pay rent on behalf of a tenant with a disability or making a case-by-case exception to a building's general no-pets policy to accommodate a resident with an emotional support animal. Please note that service or guide animals, unlike emotional support animals, are automatically exempt from any no-pet policy. Service or guide animals are individually trained to perform specific tasks associated with their owner's disability, such as guiding an individual who is blind or assisting an individual with epilepsy when she is having a seizure.

[*Name of housing provider*] will also allow reasonable modifications to the physical premises when necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling and when the modification will not cause an undue hardship to [*name of housing provider*]. A reasonable modification is a structural change made to the interior or exterior of an individual housing unit or common area to accommodate a resident with a disability.

To request a reasonable accommodation or reasonable modification, contact [*name, phone number, and email address for employee of housing provider to whom requests for a reasonable accommodation/modification should be directed*]. To process your request, [*name of housing provider*] may require supporting documentation from a treating doctor or mental health professional to confirm that you have a disability as defined by the LAD and that the requested accommodation or modification is necessary to provide you with an equal opportunity to use and enjoy the dwelling. All requests and information related to a request, including medical information, will be kept confidential unless disclosure is required by law.

[*Name of housing provider*] will make a prompt decision on your request and will provide that decision in writing. If [*name of housing provider*] cannot grant the requested accommodation or modification, we will attempt to reach a compromise that is acceptable to you.

You cannot and will not be subjected to retaliation for requesting an accommodation or modification under this policy or for attempting to exercise your rights under this policy or under the LAD.

Any person who believes a request for an accommodation or modification has been unlawfully denied or unreasonably delayed may contact the New Jersey Division on Civil Rights at [www.NJCivilRights.gov](http://www.NJCivilRights.gov) or 1-866-405-3050. A complaint must be filed with the New Jersey Division on Civil Rights within 180 days of the housing provider's denial of the accommodation request.