

1010.1, 1010.2, 1010.3, 1010.4
On-Level and Honors

Fair Housing Lesson 2: IS IT HOUSING DISCRIMINATION? (11/99)

**CLG 1, Political Systems, Expectation 1: Indicator 3; Expectation 2:
Indicators 2 and 3**
**Skills for Success Goal 2, Indicators 2.1, 2.2, 2.4, 2.5, 2.6, 3.2, 4.1,
4.2 and 4.4**
Duration: 90-135 minutes

Objectives:

1. Assess individual notions of fair versus unfair discrimination.
2. Distinguish between legal and illegal discrimination.
3. Evaluate hypothetical cases to determine what is housing discrimination.
4. Assess the persuasiveness of arguments used in mini-mock trials.
5. Analyze fair housing laws at the national, state and local levels.

Lesson Summary:

1. Part 1: Personal Reactions to What Constitutes Discrimination (15 minutes)
Students participate in a continuum activity to assess their views on what should constitute housing discrimination.
2. Part 2: Preparing for the Mini-Mock Trials (30-45 minutes)
Students review the facts of a case of alleged housing discrimination and work in small groups to prepare for simultaneous mini-mock trials. Preparation for the trials may include knowledge of fair housing laws, or these laws may be taught after the trials, at the teacher's discretion. (See instructional options for more details.)
3. Part 3: Mini-Mock Trials (30-45 minutes)
Students participate in simultaneous mini-mock trials as judges or lawyers and compare results and experiences.
4. Part 4: Responding to Housing Discrimination (15-30 minutes)
Students examine national, state, and local fair housing laws and methods for identifying and ending housing discrimination.

Preparations

1. Consider inviting as a resource person an attorney or a housing advocate to assist with the lesson – ideally for its entire duration, although a resource person could be helpful with any segment. The resource person could help student attorneys prepare for the trial (Part 2), circulate as students conduct the trials (Part 3), and/or assist with explaining the law and provide practical information on fair housing resources (Part 4). When you schedule the resource person for applicable parts of the lessons, send a copy of the lesson. To locate an attorney or housing advocate, call the Montgomery County Bar (contact Paul Smith at 301.762-0033), or recruit an attorney you know. High School Resource Teachers have names of attorneys who have agreed to assist specific MCPS schools.
2. Create two signs —“Fair” and “Unfair” to use in Part 1’s continuum activity.

3. Photocopy for each student:
 - Handout 2-A: The Case of the Young Family, the Unwanted Tenants?
 - Handout 2-B: Deposition Testimony
 - Handout 2-C: Steps in a Mini-Mock Trial
 - Handout 2-D: Memorandum
 - Handout 2-E: Instructions for Group Work in Mini-Mock Trials
 - Handout 2-G: If ‘No Vacancy’ is cut on the bias
 - Handout 2-H: Responding to Housing Discrimination
 - Handout 2-I: Is It Housing Discrimination?
 - Handout 2-J: Answer Key: Is It Housing Discrimination?
 - Handout 2-K: Who Is Responsible for Fair Housing? (optional—recommended for ESOL and special education classes)
4. Create transparencies of:
 - Handout 2-C: Steps in a Mini-Mock Trial
 - Handout 2-E: Instructions for Groups in Mini-Mock Trials
 - Handout 2-F: Mini-Mock Trials: Judges’ Results

Instructional Options

This lesson features several simultaneous mini-mock trials where students play roles of attorneys and judges. The issue of the case is whether housing discrimination occurred when a landlord rejected a prospective tenant. Decide which of the following options best meets your needs.

Option #1

Students prepare for the trials before receiving any formal instruction about fair housing laws. In this case, student attorneys formulate arguments for the mini-mock trials based on what they can infer from the facts. In rendering a decision, the student judges must weigh the tension between individual rights to property and privacy versus equal opportunity and the common good. After the trials have ended, students will apply national, state and local fair housing by reviewing **Handout 2-D: Memorandum**. Students will comment on whether knowledge of the laws would have affected the outcomes of the different trials.

Option #2

You may elect to have student preparation for trial include knowledge of the law by distributing **Handout 2-D: Memorandum** prior to the trial. This option is recommended for honors classes,

Option #3 (Particularly useful for ESOL or Special Education classes)

You may elect to have students complete the form contained in the “Are You a Victim of Housing Discrimination?” pamphlet. The pamphlet is included in your training materials in the “Lesson 2: Is It Housing Discrimination” folder. Additional copies may be ordered by call the Department of Housing and Urban Development at 1-800-767-7468.

Part 1: Reactions to What Constitutes Housing Discrimination (15 minutes)

1. Post two signs – “Fair” and “Unfair”—at opposite ends of the room to form a “living” continuum. Space between the signs will be needed so that students can stand and move around during the activity.
2. Inform students that in a moment they will have a chance to decide what are “fair” versus “unfair” reasons for rejecting a tenant. Ask 5-7 student volunteers to come to the front of the classroom.
3. Explain to volunteers that you will read selected statements and that they should stand at the position on the continuum –between “fair” and “unfair”—that best represents their viewpoints.
4. For each statement below, read the first sentence and have students take a position on the continuum. Ask a few students to explain why they are standing where they are standing. Then read the *follow-up statements*. Explain that students can change their positions in response to the opinions expressed by other students. Allow students to shift their positions to reflect any change in their opinions.

Note: Feel free to select and modify statements and questions as needed for your students and so that the activity can be completed in 15 minutes. You might want to ask for a new group of volunteers as the activity progresses.

- A landlord who is an avid gardener rejects a tenant because the tenant’s family has six kids, and children of the previous tenants ruined the garden. *What if these six children are all avid gardeners? What if the children are teenagers? What if the children love to play outside? What if the six children are all boys?*
- A female landlord rejects a male tenant because she rents just a few rooms in her home and wants only female tenants. *What if the landlord rents only two rooms? What if the landlord rents ten rooms? What if there is a shortage of housing for single men?*
- A landlord rejects a tenant because of the tenant’s race. *What if the landlord were the same race as the tenant? What if the landlord rejected the tenant because she wanted tenants of her own race in order to have positive role models for her children? What if the landlord belongs to a hate group that targets people of the tenant’s race?*
- A landlord who rents several apartments rejects a tenant who uses a wheelchair because it would cost too much money to put in an entrance ramp. *What if the landlord worries that the other tenants will feel uncomfortable with someone in a wheelchair? What if the tenant offers to pay for the ramp? What if the landlord feels the ramp will make the building unattractive?*
- A landlord rejects a tenant because of unfavorable references due to previous evictions. *What if the tenant were evicted for non-payment of rent? What if the tenant is now a millionaire? What if the tenant were evicted for fighting? What if the tenant were evicted for trashing the previous apartment?*
- A landlord rejects a Latino family because he hears from real estate agents that the neighborhood is “about to turn” if more Latinos move into the neighborhood. *What if the*

*landlord is Latino? What if the landlord offers another unit in a different neighborhood?
What if the landlord thinks the family will not feel welcomed here?*

5. Now that students have grappled with when it is “fair” or “unfair” to discriminate against a tenant, have them complete the following strands:

Unfair reasons to reject a tenant include . . . Fair reasons to reject a tenant include . . .

6. Have students share responses as you record them on the board.

Part 2: Preparing for the Mini-Mock Trials (30-45 minutes)

Set: What Is Housing Discrimination? (10 minutes)

1. Distribute **Handout 2-A: The Case of the Young Family, the Unwanted Tenants?** to each student. Have a volunteer read it aloud.

Handout 2-A
THE CASE OF THE YOUNG FAMILY, THE UNWANTED TENANTS?
<p>Since the death of her husband, Rose Weaver has operated a five-unit apartment house built in the 1960's. She lives in one unit and makes a meager income by renting out the other four. She doesn't really dislike children, but knows that several of her regular tenants have threatened to move out if there is too much noise in the building.</p> <p>The Young family needs an apartment. A friend tells them about a two-bedroom, ground floor apartment that is available at Rose Weaver's. Monica Young calls and makes an appointment to inspect the apartment that afternoon. Rose Weaver seems interested in renting to Monica Young.</p> <p>In the late afternoon, Ms. Young and her three children, Alison (age 7), Albert (age 5) who uses a wheelchair because of a disability, and Traci (age 1) arrive to inspect the apartment. Mrs. Weaver tells them that the apartment has already been rented.</p>

2. Have students list the relevant facts. Record them on the board. Sample facts include:
 - Rose Weaver is a landlord who operates a five-unit apartment house.
 - Rose Weaver lives in one of the units.
 - Rose Weaver's tenants do not want a noisy building.
 - Monica Young needs an apartment for her family.
 - Monica Young is interested in renting a two-bedroom apartment in Rose Weaver's building.
 - Monica Young has three children, including a son who uses a wheelchair because of a disability.
 - Rose Weaver informs Monica Young that the apartment has been rented.

Note: The list should focus on *facts*, not interpretations of the facts; i.e., at this point, students should not be contending that Mrs. Weaver did not rent to Ms. Young because Mrs. Weaver does not want children in her building. These arguments should be saved until small group preparation for the mini-mock trials.

3. Be sure that students understand the issues in the case. Write the issues on the board (but postpone discussion of them until after the trial):
 - Can a landlord do whatever she wants with her property?
 - Can the landlord's right to privacy be allowed to influence her decision to rent?
 - Does the Young family have the right to live where they wish?
 - Did housing discrimination occur?

- Did the landlord turn the Young family down for legal or illegal reasons?
4. Distribute **Handout 2-B: Deposition Testimony**. Have different students volunteer to read each of the four witness statements aloud. Explain that some of the witness accounts of what transpired may be inconsistent. Inform students that the mini-mock trials will take place shortly and that each student will play the role of either an attorney for Monica Young, an attorney for Rose Weaver, or a judge. It will be the job of the attorneys to address these inconsistencies as they try to persuade judges to rule in favor of their clients.

Handout 2-B

DEPOSITION TESTIMONY

These are witness statements, taken under oath, in depositions in the case of Monica Young v. Rose Weaver. The statements of the different witnesses may be inconsistent. As lawyers, you should use the statements that support your case. You should also attempt to discredit statements that do not support your case as you make your arguments in the mini-mock trials.

Witnesses on behalf of Monica Young:

Monica Young: I arrived to inspect Rose Weaver’s apartment about four hours after talking with her. I was about half an hour late. Rose Weaver said, “Oh, I had no idea you had kids.” Then she told me that the apartment had already been rented. She had made it sound like the apartment was mine if I wanted it over the phone. A few days after Rose Weaver told me that the apartment was rented, I noticed that there was a “For Rent” sign in the window of the apartment building. When I walked by again the next day, the sign was gone. I really wanted the apartment. All it needed was an entrance ramp for Albert.

Alison Young: I am 7 years-old. Monica Young is my mommy. I went with my mommy to see the apartment. I wanted to live there since it is near my best friend’s house. I heard that cranky Mrs. Weaver say, “After all, it’s my property, and I have the right to decide who lives here.” She rolled her eyes and told Albert to be careful not to run over her beautiful flowers with his wheelchair.

Witnesses on behalf of Rose Weaver:

Rose Weaver: I rented the apartment Monica Young was coming to see to an elderly gentleman about an hour before she arrived. The gentleman and I had a verbal agreement. But when I called to follow-up, I found his number was disconnected. He never called back. Too bad that I did not have Monica’s number or I would have called her. About two weeks later, I rented the apartment to a retired couple. In the past, I rented an apartment to one lovely family with children who moved out three years ago. I can’t remember renting to anyone with a disability, but then no one with a disability has ever applied.

Kyle Rogers: I have lived in Rose Weaver’s building for five years. Rose Weaver is like family to me. I work out of my apartment as a computer specialist. I remember the day Monica Young’s family came by because the Young children were creating a racket outside my window. Several other people came by to check out the apartment earlier in the day. Rose Weaver would never discriminate against anyone. Plus she needs the money. She loves her grandchildren. In fact, they lived here a few years ago.

Note: Invariably students will ask if they can make up/add facts. Inform students that they must stick to only those facts contained in the fact pattern and the depositions. The judges will have reviewed these materials and will know if any of the lawyers are fabricating new facts. Fabrications will negatively affect the judges’ decisions. The facts are balanced so that either side can win. The only time an attorney can embellish existing facts is if the judge asks a

question not contained in these materials. At that point, an attorney is free to answer the question in the light favorable to his or her client. The judge should make sure that the opposing attorney has an opportunity to respond.

Mini-Mock Trial Activity Preparation: The Procedures (10 minutes)

Note: The goal of this mini-mock trial is to teach students the general principles behind fair housing laws and methods for identifying and addressing housing discrimination. While students will learn important skills inherent in participating in a mock trial, the goal is not to prepare students for mock trial competition. If you want to help students prepare for mock trial competition, you could choose to simulate a mock trial by calling witnesses who would be subjected to direct and cross- examinations.

1. Inform students that Monica Young has decided to take Rose Weaver to court and that students will be participating in simultaneous mini-mock trials. Before assigning their roles, have the resource person [if available] briefly describe how to prepare an opening statement and a closing argument for purposes of these mini-mock trials.
 - An **opening statement** should describe what you expect the evidence to prove in the case, and what you want the judge to do.
 - A **closing argument** should summarize what the facts have proven, why your side should win, and what you want the judge to do.
2. Distribute and post **Handout 2-C: Steps in a Trial**. Explain that the judges should conduct the trials using these steps. The resource person [if available] can review and clarify the steps.

Handout 2-C
<p style="text-align: center;">STEPS IN A MINI-MOCK TRIAL</p> <p>The judge should do the following:</p> <ol style="list-style-type: none"> 1. Call for "order in the court." 2. Announce the name of the case. (Monica Young v. Rose Weaver) 3. Have the plaintiffs' (the Young family's) attorney make an opening statement. An opening statement should describe what you expect the evidence to prove in the case, and what you want the judge to do. 4. Have the defendant's (Rose Weaver's) attorney make an opening statement. 5. Ask questions of both sides. 6. Have the plaintiff's (the Young family's) attorney make a closing argument. A closing argument should summarize what the facts have proven, why your side should win, and what you want the judge to do. 7. Have the defendant's (Rose Weaver's) attorney make a closing argument. 8. Complete the decision form: I find in favor of: ___ the plaintiff and order the defendant to _____, or ___ the defendant I base my decision on the following:

Mini-Mock Trial Activity Preparation: The Laws (15 minutes) [OPTIONAL: This assumes teachers choose to inform students about Fair Housing Law before mini-mock trials.]

1. Inform students that in preparation for the trials, law clerks were hired to conduct research on the relevant fair housing laws.
2. Distribute **Handout 2-D: Memorandum** and have students write their names next to the “To:” You may wish to have students comment on how these laws related to the strand students completed (“unfair reasons to reject a tenant include . . .”) earlier in the lesson. Because of its length, only page 1 of **Handout 2-D** is included here:

Handout 2-D (Page 1 of 4)
M E M O R A N D U M
<p>TO: _____</p> <p>FROM: Law Clerk</p> <p>RE: <u>Monica Young v. Rose Weaver: Fair Housing Law Research</u></p>
<p>In preparation for the upcoming trial, I researched applicable fair housing laws. This trial is taking place in federal court. Only the federal laws specifically apply. Nonetheless, it is important to be aware of any similarities and differences between national, state, and local fair housing laws.</p>
<p><u>Directions:</u> In preparation for trial, I suggest that you read pages 2-4 of this Handout and:</p>
<ul style="list-style-type: none"> • Highlight or underline any laws that may apply in this case. • Decide if and how the fair housing laws apply to Monica Young. Please explain your answer. • Decide if and how the fair housing laws apply to Rose Weaver. Please explain your answer. • Review the cases and determine what impact they may have in this case.

3. Clarify the “Directions” portion of the Memorandum.
4. Highlight differences between laws at the national (*protects seven groups*), state level (*Maryland protects the seven federal groups and adds protections based on marital status*), and local level (*Montgomery County protects the same groups as federal and state laws and adds protections based on ancestry, sexual orientation, and age*).

5. Remind students that their trials will be taking place in federal court so only the federal fair housing laws apply.

Mini-Mock Trial Activity: The Roles and Tasks (10 minutes)

1. Now that students are familiar with the steps [and the laws if option 1 has been used] applicable in these mini-mock trials, do the following:
 - Have students count off 1, 2, 3. (The 1's are the attorneys for Monica Young; the 2's are the attorneys for the Rose Weaver; and the 3's are the judges. It is helpful to distribute three different colors of index cards, e.g., – yellow cards are attorneys for Monica Young; green cards are attorneys for Rose Weaver, and blue cards are the judges—to facilitate role assignments and encourage note taking.)
 - Post and/or distribute **Handout 2-E: Instructions for Groups in Mini-Mock Trial Activity**. Clarify as needed. Remind students to take notes as they prepare for trial since every student will be playing a specific role in the mini-mock trials. (If you chose to use **Handout 2-D: Memorandum** remind students to review this information if preparing for the mini-mock trials.)

Handout 2-E

Instructions for Groups in Mini-Mock Trial Activity

For the purpose of the mini-mock trials, there will be no witnesses called. Instead the attorneys for both sides will present their cases before a judge as outlined in **Handout 2-C: Steps in a Mini-Mock Trial**. To help support their cases, the attorney should refer to **Handouts 2-A: The Case of the Young Family, the Unwanted Tenants?** and **2-B: Deposition Testimony**.

1's -- Attorneys for Monica Young should meet (in groups of 5 or fewer students) to list reasons why the Young family should be able to rent to the apartment. Highlight or underline the portions of **Handouts 2-A** and **2-B** that support your case. Prepare an opening statement and closing argument for the court.

2's -- Attorneys for Rose Weaver should meet (in groups of 5 or fewer students) to list reasons why Rose Weaver should be able to rent to whomever she wishes. Highlight or underline the portions of **Handouts 2-A** and **2-B** that support your case. Prepare an opening statement and closing argument for the court.

3's -- Judges should meet (in groups of 5 or fewer students) to list questions they would like to ask the attorneys for the Young family or Rose Weaver, based on the information you know. Review **Handout 2-C**.

- Divide class into 3 into groups: one of 1's (attorneys for Monica Young); a second of 2's (attorneys for Rose Weaver); a third of 3's (judges). If the class is large and more than five students are in each group, teachers may decide to subdivide the three groups.
4. As the groups prepare, circulate [with the resource person if available] to assist with the assignment.

Homework for 45 minute classes

Students should continue preparing for the mini-mock trials. For classes with block scheduling, proceed to Part 3.

SUGGESTED ALTERNATE LESSON PLAN FOR ESOL AND/OR SPECIAL EDUCATION

Have students complete the form contained in the “Are You a Victim of Housing Discrimination?” pamphlet. The pamphlet is included in your training materials in the “Lesson 2: Is It Housing Discrimination” folder. Additional copies may be ordered by call the Department of Housing and Urban Development at 1-800-767-7468.

Part 3: Mini-Mock Trials (30-45 minutes)

Note: Create triads of chairs to simulate mini-court rooms. For example, if you have 21 students, there will be seven simultaneous mini-mock trials and you will need seven triads of chairs. We recommend conducting numerous mini-mock trials, so that every student has an active role in the activity. However, if you feel uncomfortable with this approach, you may wish to conduct a class-wide mock trial with a panel of judges and several attorneys on each side.

Conducting the Mini-Mock Trials (15-30 minutes)

1. After the attorneys have prepared their cases and the judges have prepared their questions and reviewed court procedures, create triads by pulling one student from each group to form triads (each triad should contain a 1, 2, and 3) to carry out steps in the mini-mock trial activity described in **Handout 2-E**.
2. When all the triads are formed, direct the "judges" to begin the trials. Tell judges not to share their decisions until the whole classroom reassembles. Circulate to assist.

Discussion/Debriefing (10 minutes)

1. When the judges are ready, have each report his/her decision and reasoning. Record decisions using the **Handout 2-F: Results** transparency.

Handout 2-F

MINI-MOCK TRIALS: JUDGES' RESULTS

	Whom did you find in favor of?	Why?	What action do you want to enforce?
Group A			
Group B			
Group C . . .			

2. The teacher or resource person [if available] should comment on the decisions and discuss what generally might take place in a real court in terms of procedures. Sample comments include:

This case is typical of the type of alleged discrimination in the housing industry. The facts surrounding this case illustrate the difficulties in proving housing discrimination. Often discrimination is subtle, and the only way it can be proven is through the use of testers who can compare the treatment between two tenants who are the same in every respect except for their race or religion or gender, etc.

Since 1993, the Department of Housing and Urban Development has received almost 44,000 fair housing complaints which have brought in over \$150 million dollars in court orders and judgments.¹ Throughout the nation African-Americans and Latinos frequently receive less favorable treatment (they are shown inferior units; are required to prove extra financial qualifications, are told units are no longer vacant, etc.) than whites when attempting to buy or rent property.

According to a 1997 report, Montgomery County has one of the worst records of racial discrimination in the area in apartment rentals. African Americans are treated less favorably than whites 59 percent of the time when they look to rent apartments. A Fair Housing of Greater Washington study revealed that local lenders discriminate against two out of five African American and Latino mortgage applicants. Testers found that 43 per cent of Latinos and 42 percent of African Americans looking to buy homes in Montgomery County face discrimination.

The case you participated in was a federal court case. The arguments you made and the reasoning of the judges were similar to those real attorneys and judges would make. This case could be decided by a judge or a jury, depending on a number of factors. Before the case would have reached the trial stage, there would have been many attempts along the way to settle it, for example through mediation or by an out-of-court settlement.

Application of Federal Law (15 minutes)

1. Distribute or refer to **Handout 2-D: Memorandum**. Check for basic understanding of the law by asking:
 - What does the federal law make illegal?
The law prohibits housing discrimination based on a person's race, color, sex, national origin, or religion. The act was amended in 1988 to include persons with disabilities and families with children among the categories of people protected. Many states and local governments have anti-discrimination laws that provide additional protections to groups of individuals not specifically mentioned in the federal act.
 - What housing activities do you think the Fair Housing Act covers?
Generally, it covers the sale, leasing, rental, financing of housing, the provision of real estate brokerage services and insurance, as well as treatment while you are renting.
 - Does the law apply to Rose Weaver?
Yes. The Federal Fair Housing Act applies to landlords who rent four or more units (private or publicly subsidized). The law applies to Rose Weaver since she rents four units.

¹ "President Clinton announces \$11.5 Million in Grants to Help Groups in 42 Cities Crack Down on Housing Discrimination," Press Release by the Department of Housing and Urban Development, November 25, 1998.

- Does it apply to the Young family?
The law will apply to the Young family since the act covers discrimination in the rental of property. However, Monica Young must prove that Rose Weaver is discriminating against them based on membership in at least one of the seven protected groups.
- Who has the burden of proof in this case?
Since this is a civil case, the plaintiff (Monica Young) must prove her case by a preponderance of the evidence. [In a criminal case, the plaintiff must prove the case beyond a reasonable doubt.]

2. Explore what impact this law would have, if any, on judges’ decisions in the case of *Monica Young v. Rose Weaver*. [If students already used **Handout 2-D:Memorandum** to prepare for the mock trials, discuss the impact of the law on the judges’ decisions.] Use the following as a guide:

- Under the Federal Fair Housing Act would the Young family have won their case?
It is not clear whether Rose Weaver’s actions would violate the Federal Fair Housing Act. This depends on what factors the students argued in their mini-mock trials and what could be proven in a court of law. While this answer will be unsatisfying to students, the mock trial is constructed not to have a clear-cut answer so either side has an opportunity to win. Additionally, cases that actually go to trial are usually fairly balanced. Most civil cases – including housing discrimination cases—are settled prior to trial. What follows is a chart of facts and laws each side could have brought out during the trial to help you debrief the trial. Your students will have additional points to bring out. To help students evaluate this information, begin by asking the attorneys what was the most compelling argument for each side.

	Monica Young	Rose Weaver
Major Arguments based on Federal Law	Discriminated against the family based on: <ul style="list-style-type: none"> • Family status—the fact that they had children • Albert’s disability • Monica Young’s gender 	Rented the apartment based on legal, non-discriminatory reasons—another tenant got the apartment first. This was not a pretext for illegal discrimination
General Arguments Supporting Respective Theories of the Case	<ul style="list-style-type: none"> • Apartment was available; Rose Weaver interested in renting; apt. taken off the market when Rose Weaver realized that Monica Young had children and had a child with a disability • Story about a gentleman coming to rent it before Monica arrives does not ring true (short passage of time, etc.) • Apartment on the market again undercuts Rose Weaver’s contention that she had rented it. • Situation is similar to cases in Memo – apt. available; then after 	<ul style="list-style-type: none"> • Defense clear and simple – Rose Weaver rented the apartment on a first-come-first-serve basis (Kyle Rogers can support fact that others came by to see apt. that same day) • Monica Young arrived too late (half an hour late for appointment) • Not Rose Weaver’s fault that the gentleman did not honor his verbal agreement • Would have been happy to rent to Monica Young had she had her number

	meeting tenant, no longer available	<ul style="list-style-type: none"> • Situation not as egregious as the cases in Memo—no direct admission by landlord of discrimination
Facts Supporting Monica Young’s Case based on Family Status (Family status covers discrimination based on presence of children. Also covers pregnant woman.) and Ways to Discredit Them	<p><u>Family status discrimination:</u></p> <ul style="list-style-type: none"> • Tenants have threatened to move if too much noise (fact pattern) • Tenant complaints of noise from Young children (depo. K.R.) • Rose Weaver’s comment—“no idea you had kids” (depo. M.Y.) • Rose Weaver’s comment --“my property have the right to decide . . . (depo. A.Y.) • Appears that the only time she has rented to families with children is in the case of her own grandchildren (depos. R.W. & K.R.) 	<p><u>Arguments Discrediting</u></p> <ul style="list-style-type: none"> • Rose Weaver doesn’t dislike kids (fact pattern) (depo. K.R.) • No evidence that Kyle Rogers’s comments reached Rose Weaver • Comment –“no idea you had kids” & “my property . . .” not discriminatory necessarily, just an observation • Alison Young misunderstood statement; only 7 yrs. & biased • Facts leave room for doubt as to whether only family with children ever to live in the bldg. Were her grandchildren
Facts Supporting Monica Young’s Case based on Albert’s Disability And Ways to Discredit Them	<p><u>Disability Discrimination</u></p> <ul style="list-style-type: none"> • Rose Weaver rolled her eyes and told Albert not to run over flowers w/ wheelchair (depo. A.Y.) • Never rented to a person with a disability (depo. R.W.) • Rose Weaver strapped for money & wouldn’t want to build a ramp (fact pattern, depo. K.R.) 	<p><u>Arguments Discrediting</u></p> <ul style="list-style-type: none"> • Alison Young misunderstood; only 7 yrs. & biased • No one with a disability has ever applied (depo. R.W) • Disability laws support proposition that the Young family would pay for the ramp so irrelevant that Rose Weaver strapped for cash
Facts Supporting Monica Young’s Case based on Gender And Ways to Discredit Them	<ul style="list-style-type: none"> • Looks like rental pattern is to men or to couples where a man is present 	<ul style="list-style-type: none"> • Not enough information to project gender discrimination

3. Ask attorneys for Monica Young to list other facts that would have (if available prior to a landlord’s decision to reject a tenant) supported a tenant’s case for unlawful discrimination. Sample facts include:

- Favorable credit history
- Favorable references
- Sufficient income
- Information that would place the family in other protected groups (e.g., based on race, religion, etc.)
- Pattern of discriminatory behavior by Rose Weaver
- Results from testers. Testers pose as prospective tenants to uncover evidence of discriminatory behavior. The cases in the **Handout 2-D: Memorandum** illustrate the importance of testers. (The use of testers will be examined in more detail in Fair Housing Lesson 3: Keys to the House.)

4. Ask attorneys for Rose Weaver to list other facts that (if available prior to a landlord’s decision not to rent the apartment) would have supported their client’s case:

- Valid business reason for not renting to Young such as bad credit record for Young; bad references for Young; or insufficient income for Young

- Evidence that the gentleman and Rose Weaver did enter into a verbal agreement (for example, someone who heard it, a security deposit, etc.)
- Rental history of renting to people with children and disabilities

5. Ask students if Rose Weaver could defend her actions by:

- Claiming that a two-bedroom apartment was too small for four people.
This defense would likely constitute illegal discrimination based on family status. While landlords can limit occupancy based on occupancy standards related to health and safety, the limit must be reasonable, and HUD and the courts usually have interpreted this to mean at least a two-person-per-bedroom standard.
- Using a valid defense (bad credit, bad references, not enough money, etc.) as a pretext for rejecting Monica Young when her real reason was actually Albert's disability, family status, or gender.
This would be illegal discrimination; of course, Monica Young would have to prove this.

6. [If time permits] have the class assume that the Youngs are moving into Rose Weaver's apartment. Have students refer to **Handout 2-D: Memorandum** to discuss special protections for people with disabilities provided by the Federal Fair Housing Act.

Generally, buildings with four or more units ready for use after March 13, 1991 must have certain design features to accommodate people with disabilities. For example, doors and hallways wide enough for people with wheelchairs. Since her building was constructed prior to 1991, Rose Weaver is exempted from this portion of the law.

In order to comply with the Fair Housing Act (FHA), Rose Weaver must make "reasonable accommodations" for a person's disability. The person with the disability must ask for the "reasonable accommodation," and the accommodations are usually paid for by the tenant. In certain instances, the landlord may permit changes only if the tenant agrees to restore the property to its original condition when he or she moves.

In the Young case, reasonable accommodations would include lowering the building doorbell to for Albert or allowing the family to build an entrance ramp. An unreasonable accommodation would be to allow Albert to be exempt from a no-pet policy because he wants a pet pig; i.e., his wanting a pig has nothing to do with his disability

7. Discuss remedies available under the federal act, and compare them to the remedies ordered by the judges:

Under the Federal Fair Housing Act, a person who engages in housing discrimination can be ordered to:

- *compensate the victim for actual damages resulting from the discrimination including humiliation, pain, and suffering.*
- *provide injunctive relief (an order that requires the defendant to do something) such as making the apartment available to the victim of housing discrimination.*

- *pay the Federal Government a civil penalty (ranging from \$10,000 for the first offense to \$50,000 for a third violation within seven years) to protect the public interest*
- *pay reasonable attorney's fees and costs.*

Closure

1. Discuss the results, selecting from the following questions:

In General:

- Did the judges decide differently? Why? Is that fair?
- What interests are in conflict here? *For example, the Young family's right to live where they want versus Rose Weaver's right to control her property and secure her privacy.*

Ask attorneys for Monica Young:

- What were the most compelling arguments for the Young family?
- Was it hard to prove discrimination?
- Did the attorneys have a fair opportunity to present their cases?
- What are some of the disadvantages of taking Rose Weaver to court?

Suing Rose Weaver will cost money and take time.

The Young family also needs to consider certain factors that might be disadvantageous. (Where will they live in the meantime? Will Monica have to miss too much work to go to court? If the Young family wins, will they want to live with a landlord who doesn't want them? Are there better options for the Young family to use in dealing with Rose Weaver?)

Ask attorneys for Rose Weaver:

- What were the most compelling arguments on behalf of Rose Weaver?
 - What if she had rejected the Young family for reasons such as having a bad credit history, insufficient income, or unfavorable references? Would this be fair?
 - Did the attorneys have a fair opportunity to present their cases?
 - What are some of the disadvantages of having to defend a case in court?
- Loss of time; damage to Rose Weaver's reputation; cost of lawyer; empty apartment; etc.*

Ask Judges:

- What did you like about being a judge?
- Was it hard to make a decision?
- How did you decide which action was appropriate for this case?
- Now that you have heard arguments and decisions of other triads, do you think you might decide this case differently? If so, why?

2. Have students brainstorm what could Monica Young have done besides taking Rose Weaver to court. Sample ideas include:

- Calling the Montgomery County Human Relations Commission.

- Calling the Department of Housing and Urban Development office.
 - Calling the fair housing organizations.
 - Looking for another apartment.
 - Participating in mediation.
 - Protesting the landlord's actions.
 - Negotiating with Rose Weaver.
8. Distribute **Handout 2-H: Responding to Housing Discrimination**. Compare with the list students' brainstormed above.

Part 4: Responding to Housing Discrimination (15-30 minutes)

Discussing State and Local Fair Housing Laws and Resources (15 minutes)

1. Have students identify [or review] differences between the federal, state and local Fair Housing Laws. Refer to applicable portion of **Handout 2-D: Memorandum**.

National	State	Local
<p>The Fair Housing Act (Title VIII of the Civil Rights Act) makes it illegal to discriminate in housing based on:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> National origin <input type="checkbox"/> Sex (incl. sex harassment) <input type="checkbox"/> Handicap <input type="checkbox"/> Familial status 	<p>The Maryland Code (Article 49B) makes it illegal to discriminate in housing based on:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> National origin <input type="checkbox"/> Sex (incl. sex harassment) <input type="checkbox"/> Physical or mental handicap <input type="checkbox"/> Presence of children <input type="checkbox"/> Marital status 	<p>The Montgomery County Code (Chap 27) makes it illegal to discriminate in housing based on:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> National origin <input type="checkbox"/> Sex (incl. sex harassment) <input type="checkbox"/> Physical or mental handicap <input type="checkbox"/> Presence of children <input type="checkbox"/> Marital status <input type="checkbox"/> Source of income <input type="checkbox"/> Ancestry <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Age

2. Ask students how it is possible for each level of government to have different Fair Housing laws.

State laws that extend additional rights to individuals and do not conflict with federal laws are constitutional. For example, in the area of fair housing Maryland law includes all the federal categories but also protects people from housing discrimination based on marital status. It would be unconstitutional if Maryland law did not protect people from discrimination based on race—a federal category. This is an example of the principle of national supremacy as established by McCullough v. Maryland (one of landmark cases subject to testing on the HSA.)

3. Have students discuss the following questions:
 - Are fair housing laws important? Sample answers include:

Fair Housing laws are the foundation for creating civil rights in housing. Refer back to Fair Housing Lesson 1’s Handout 1-B: Property, Housing & Fairness Index to analyze the difference these laws have made. These laws send a strong message that illegal discrimination in housing will not be tolerated. However, the laws do not protect everyone all the time. Housing discrimination is an ongoing problem. People must be willing and able to defend their rights. This can be difficult for many reasons, including the costs (both financial and

emotional), the difficulties of proving discrimination, and lack of knowledge about what the laws are.

- Pretend you are a renter; how can you ensure that you are not a victim of housing discrimination? Brainstorm a list on the board. *Sample answers include: knowing the fair housing laws; documenting conversations with real estate professionals; calling local housing organizations if you suspect discriminatory behavior; or having a friend call to verify what the real estate professional told you if you have doubts.*
9. Distribute **Handout 2-H: If “No Vacancy” is cut on the bias.** Use this article to expand the list on board.

Closure

Ask students what advice they would give a friend or family member who thought s/he might be a victim of housing discrimination.

Homework

Have students apply their knowledge of actual national, state, and local laws as they complete **Handout 2-I: Is It Housing Discrimination?** The answer key is located at the end of this lesson, **Handout 2-J: Answer Key: Is It Housing Discrimination?**

ESOL and Special Education students might complete **Handout 2-K: Who Is Responsible for Fair Housing?** Coach students to examine the name of the entity for clues. Clues also appear in the description.

Answer Key: Handout 2-K

**WHO IS RESPONSIBLE FOR FAIR HOUSING?
Federalism and Fair Housing**

Directions: Identify the level of government (N-National, S-State, L-Local) and/or type of action (P-Private) in each of the following.

1. N **U.S. Department of Housing and Urban Development**
2. L **Montgomery County Council**
3. S **Maryland General Assembly**
4. L **Montgomery County Human Relations Commission**
5. L **Housing Opportunities Commission**
6. L **Interagency Fair Housing Coordinating Group**
7. P **Maryland Suburban Fair Housing, Inc**
8. P **Homeless Shelters**
9. L **The Montgomery County Rental Assistance Program**
10. N **The Department of Justice**
11. P **The Fannie Mae Foundation**
12. P **Casa de Maryland.**

THE CASE OF THE YOUNG FAMILY, THE UNWANTED TENANTS?

Since the death of her husband, Rose Weaver has operated a five-unit apartment house built in the 1960's. She lives in one unit and makes a meager income by renting out the other four. She doesn't really dislike children, but knows that several of her regular tenants have threatened to move out if there is too much noise in the building.

The Young family needs an apartment. A friend tells them about a two-bedroom, ground floor apartment that is available at Rose Weaver's. Monica Young calls and makes an appointment to inspect the apartment that afternoon. Rose Weaver seems interested in renting to Monica Young.

In the late afternoon, Monica Young and her three children, Alison (age 7), Albert (age 5) who uses a wheelchair because of a disability, and Traci (age 1) arrive to inspect the apartment. Mrs. Weaver tells them that the apartment has already been rented.

DEPOSITION TESTIMONY

These are witness statements, taken under oath, in depositions in the case of Monica Young v. Rose Weaver. The statements of the different witnesses may be inconsistent. As lawyers, you should use the statements that support your case. You should attempt to discredit statements that do not support your case in making your arguments in the mini-mock trials.

Witnesses on behalf of Monica Young:

Monica Young: I arrived to inspect Rose Weaver's apartment about four hours after talking with her. I was about half an hour late. Rose Weaver said, "Oh, I had no idea you had kids." Then she told me that the apartment had already been rented. She had made it sound like the apartment was mine if I wanted it over the phone. A few days after Rose Weaver told me that the apartment was rented, I noticed that there was a "For Rent" sign in the window of the apartment building. When I walked by again the next day, the sign was gone. I really wanted the apartment. All it needed was an entrance ramp for Albert.

Alison Young: I am 7 years-old. Monica Young is my mommy. I went with my mommy to see the apartment. I wanted to live there since it is near my best friend's house. I heard that cranky Mrs. Weaver say, "After all, it's my property, and I have the right to decide who lives here." She rolled her eyes and told Albert to be careful not to run over her beautiful flowers with his wheelchair.

Witnesses on behalf of Rose Weaver:

Rose Weaver: I had rented the apartment Monica Young was coming to see to an elderly gentleman about an hour before she arrived. The gentleman and I entered into a verbal agreement but when I called to follow-up, I found his number was disconnected. He never called back. Too bad that I did not have Monica's number or I would have called her. About two weeks later, I rented the apartment to a retired couple. In the past, I rented an apartment to one lovely family with children who moved out three years ago. I can't remember renting to anyone with a disability but no one with a disability has ever applied.

Kyle Rogers: I have lived in Rose Weaver's building for five years. Rose Weaver is like family to me. I work out of my apartment as a computer specialist. I remember the day Monica Young's family came by because the Young children were creating a racket outside my window. Several other people came by to check out the apartment earlier in the day. Rose Weaver would never discriminate against anyone. Plus she needs the money. She loves her grandchildren. In fact, they lived here a few years ago.

STEPS IN A MINI-MOCK TRIAL

The judge should do the following:

1. Call for "order in the court."
2. Announce the name of the case. (Monica Young v. Rose Weaver)
3. Have the plaintiff's (the Young family's) attorney make an opening statement. An opening statement should describe what you expect the evidence to prove in the case, and what you want the judge to do.
4. Have the defendant's (Rose Weaver's) attorney make an opening statement.
5. Ask questions of both sides.
6. Have the plaintiff's (the Young family's) attorney make a closing argument. A closing argument should summarize what the facts have proven, why your side should win, and what you want the judge to do.
7. Have the defendant's (Rose Weaver's) attorney make a closing argument.
8. Complete the decision form:

I find in favor of:

___ the plaintiff and order the defendant to:

OR

___ the defendant

I base my decision on the following:

MEMORANDUM

TO: _____
FROM: Law Clerk
RE: Monica Young v. Rose Weaver: Fair Housing Law Research

In preparation for the upcoming trial, I researched applicable fair housing laws. This trial is taking place in federal court. Only the federal laws specifically apply. Nonetheless, it is important to be aware of any similarities and differences between national, state, and local fair housing laws.

Directions: In preparation for trial, I suggest that you read pages 2-4 of this Handout and:

- Highlight or underline any laws that may apply in this case.
- Decide if and how the fair housing laws apply to Monica Young. Please explain your answer.
- Decide if and how the fair housing laws apply to Rose Weaver. Please explain your answer.
- Review the cases and determine what impact they may have in this case.

Fair Housing Laws

The Fair Housing Act of 1968 was passed to end discrimination in housing. The act provides protections to seven groups. Some states, including Maryland, have gone even farther in extending the protections of the Fair Housing Act to additional groups.² This chart compares the classes protected by fair housing laws at the national, state (Maryland), and local (Montgomery County) levels.

Federal	State	Local	Valid Reasons
The Fair Housing Act (Title VIII of the Civil Rights Act) makes it illegal to discriminate in housing based on: <ul style="list-style-type: none"> <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> National origin <input type="checkbox"/> Sex (incl. sex harassment) <input type="checkbox"/> Handicap <input type="checkbox"/> Familial status 	The Maryland Code (Article 49B) makes it illegal to discriminate in housing based on: <ul style="list-style-type: none"> <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> National origin <input type="checkbox"/> Sex (incl. sex harassment) <input type="checkbox"/> Physical or mental handicap <input type="checkbox"/> Presence of children <input type="checkbox"/> Marital status 	The Montgomery County Code (Chap 27) makes it illegal to discriminate in housing based on: <ul style="list-style-type: none"> <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> National origin <input type="checkbox"/> Sex (incl. sex harassment) <input type="checkbox"/> Physical or mental handicap <input type="checkbox"/> Presence of children <input type="checkbox"/> Marital status <input type="checkbox"/> Source of income <input type="checkbox"/> Ancestry <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Age 	A landlord can reject a tenant for valid reasons such as: <ul style="list-style-type: none"> <input type="checkbox"/> Bad credit <input type="checkbox"/> Bad references <input type="checkbox"/> Insufficient income <input type="checkbox"/> Spotty employment record <input type="checkbox"/> Apartment rented already However, a landlord cannot use a valid reason (bad credit) as a pretext for rejecting a tenant when the real reason is unlawful discrimination.

What are the penalties for engaging in housing discrimination?

Under the *Federal Act*, a person who engages in housing discrimination can be ordered to:

- compensate the victim for actual damages resulting from the discrimination including humiliation, pain, and suffering
- provide injunctive relief (an order that requires the defendant to do something such as making the apartment available to the victim of housing discrimination)
- pay the Federal Government a civil penalty (ranging from \$10,000 for the first offense to \$50,000 for a third violation within seven years) to protect the public interest
- pay reasonable attorney’s fees and costs

Under *Maryland law*, a person who engages in housing discrimination can be ordered to:

- provide an award of actual damages
- provide injunctive relief (an order that requires the defendant to do something such as making the apartment available to the victim of housing discrimination)
- pay fines to the state (\$10,000 for the first offense; \$25,000 for a second offense in five years; and \$50,000 for a third offense in seven years)
- pay reasonable attorney’s fees and costs

As per the “supremacy clause” of the U.S. Constitution states must obey federal laws. However, states may extend additional protections to individuals so long as these laws do not conflict with the federal laws. Based on my analysis, it appears that our locality’s laws are constitutional.

Under *Montgomery County law*, a person who engages in housing discrimination can be ordered to:

- provide injunctive relief (an order that requires the defendant to do something such as making the apartment available to the victim of housing discrimination)
- pay compensatory damages (for example, reimbursement costs for the rental of another apartment)
- pay up to \$1,000 in punitive damages
- pay civil penalties (\$10,000 for the first offense; \$25,000 for a second offense in five years; and \$50,000 for a third offense in seven years)
- reasonable attorneys fees and costs

Illegal Practices³

Changing the terms/or conditions of occupancy: It is illegal for rental agents to increase the cost of renting based on a person's race, color, national origin, religion, sex, familial status, or disability (the categories protected under the Fair Housing Act).

Selective questioning: It is illegal for a rental agent to ask more detailed questions to applicants because of the applicant's race, color, national origin, religion, sex, family status, or disability.

Failure to rent/to sell: It is illegal for a rental agent to refuse to rent or to show an apartment or to show or rent to a house to an applicant because of the applicant's race, color, national origin, religion, sex, family status, or disability.

Special Protections for People with Disabilities

Starting in 1989, the Fair Housing Act extended the protections of the act to people with disabilities. This area of the law is complicated. In general, all buildings with four or more units ready for first occupancy after March 13, 1991 are required by law to have design features to accommodate people with disabilities. For example, hallways must be wide enough for people who use wheelchairs.

What modifications must a landlord let me make to older buildings?

If you have a disability and live in or wish to live in a building with four or more units built before March 1991, then your landlord must permit you to:

- Make reasonable modifications to your dwelling or common areas, usually at your expense, if these modifications are necessary for you to use the housing. For example, a landlord would have to allow a person in a wheelchair to lower a doorbell. Under certain circumstances, a landlord can require you to restore the property to its original condition when you move.
- Have reasonable accommodations made in rules, policies, practices or services if necessary for you to use the housing. For example, if there were a no pets policy then the landlord would have to make an exception for guide dogs.

³ In Maryland and Montgomery County additional classes are protected. (See chart.)

Sample Cases: In Brief from the HUD News

Austin, TX (Press Release: February 12, 1998, at www.hud.gov/pressrel/pr98-71.html): An African American man visited an apartment complex in search of an efficiency and was told by the resident manager that it would be available in a few weeks. He called the resident manager the next day stating that he needed a place sooner and would be interested in a one-bedroom. He was told that there were no vacancies. He became suspicious. The next day he drove by the complex, where he saw signs advertising numerous units for rent. Tests using African-Americans and whites as prospective tenants found that whites were treated favorably whereas blacks were told that no units were available or were discouraged from applying. The Department of Housing and Urban Development has filed charges.

Richmond, VA (Press Release: May 21, 1998, at www.hud.gov/pressrel/pr98-201.html): Ms. Loney, an African American woman, who is the mother of an 11-year-old son, called about an apartment and was told that the rent was \$500 per month. After talking to her for several minutes and asking additional questions about her son, the person told her that the rent was \$575 and that she could not immediately see the apartment. When she called several days later, she was told that the apartment was now \$700. When she went to meet with the landlord, he told her that she was ten minutes late and that the apartment had already been rented. Two weeks later, Ms. Loney noticed that the apartment was being advertised for \$500. Additionally, a white, single woman tenant of the apartment building informed investigators that the landlord had said that a “colored lady” with children had come by to see the unit, that he did not want anything to do with renting to families with children and that he wanted “decent people” like her to live there. The Department of Housing and Urban Development has filed charges.

Note: The filing of charges by the Department of Housing and Urban Development means that there is “*reasonable cause to believe*” that housing discrimination occurred.

Instructions for Groups Mini-Mock Trial Activity

For the purpose of the mini-mock trials, there will be no witnesses called. Instead the attorneys for both sides will present their cases before a judge as outlined in **Handout 2-C: Steps in a Trial**. To help support their cases, the attorney should refer to **Handout 2-A: The Case of the Young Family, the Unwanted Tenants?** and **Handout 2-B: Deposition Testimony**.

- 1's – Attorneys for Monica Young should meet (in groups of 5 or fewer students) to list reasons why the Young family should be able to rent the apartment. Highlight or underline the portions of **Handouts 2-A** and **2-B** that support your case. Prepare an opening statement and closing argument for the court.

- 2's – Attorneys for Rose Weaver should meet (in groups of 5 or fewer students) to list reasons why Rose Weaver should be able to rent to whomever she wants. Highlight or underline the portions of **Handouts 2-A** and **2-B** that support your case. Prepare an opening statement and closing argument for the court.

- 3's – Judges should meet (in groups of 5 or fewer students) to list questions they would like to ask the attorneys for the Young family or Rose Weaver, based on the information you know. Review **Handout 2-C**.

MINI-MOCK TRIAL RESULTS: JUDGES' DECISIONS

	Whom did you find in favor of?	Why?	What action do you want to enforce?
Group A			
Group B			
Group C			
Group D			
Group E			
Group F			
Group G			
Group H			
Group I			
Group J			

If ‘No vacancy’ is cut on the bias by Leta Herman

As a parent, you might hear, “That balcony just wouldn’t be safe for your toddler.”

If you’re a minority, it might be, “The vacancy has just been filled.”

And if you’re disabled, maybe it’s, “Sorry, but the noise of your wheelchair would disturb the other tenants.”

These are just some of the illegal discriminatory statements that people stumble upon while seeking an apartment.

But not all forms of discrimination are illegal. Denying an apartment to a tenant with a bad eviction record, for instance, is allowed because it is based on valid business concerns.

But discrimination based on race, color, religion, sex, national origin, familial status or disability is prohibited by the Federal Fair Housing Act for most types of rental units.

Heavy penalties (ranging from up to \$10,000 for the first occurrence to up to \$50,000 for repeated offenses) have caused many landlords to stop discriminating and even take a pro-active approach.

Other landlords simply try to conceal their illegal practices. Instead of saying, “We don’t want your kind here,” they make disparaging remarks about the property to a would-be renter. These subtler statements are just as illegal as the blatant remarks.

The practice of steering is another form of subtle discrimination. A landlord or management company might “steer” groups of people into certain areas, for example, putting families with children only on the first floor, in one area of the complex or on the other side of town.

And tenants already living in their apartments can experience discrimination—if a landlord or manager treats certain tenants different from others, for example, by refusing to make needed repairs denying specific services or withholding concessions that have been given to the favored class.

So how do you know if you’re being discriminated against when the landlord isn’t being obvious about it?

Look for inconsistencies.

Trust your instincts—for example, if there is a vacancy sign out front, but the landlord claims there is no vacancy, don’t be afraid to question this.

If you suspect discrimination, don’t wait to report it. Call a local fair-housing group, which is dedicated to routing out discrimination in housing. Or contact a regional office of the U.S. Department of Housing and Urban Development, which oversees Fair House Act enforcement. HUD’s nation information number is 800-343-3442. [Contact your local commission on human relations; i.e., the local entity responsible for investigating housing-discrimination under the city’s fair housing ordinance.]

If the agency determines that your complaint seems plausible, it may send out testers, people who work undercover to test the landlord or manager to see if discrimination is occurring. The testers—some, but not all, matching the demographics of the claimant—can compare the behavior of the landlord with each type of candidate. Testers are extremely helpful if your case goes to court because they can vouch that they have experienced the same type of discrimination, avoiding a your-word-against-his scenario.

Even if testers don’t find evidence of discrimination, many people are relieved to find out there is reasonable explanation for seemingly discriminatory behavior.

But if a landlord is found to be practicing discrimination—what then?

Many agencies point tenants first toward mediation to resolve the problem out of court. If mediation doesn’t work or is not right for your situation, then the agency can help you find a private attorney or file a complaint with HUD or any local or state agency that oversees discrimination complaints.

Permission to use granted from author.

Responding to Housing Discrimination

If you are concerned about housing discrimination, contact:

- **The Montgomery Human Relations Commission**

110 North Washington Street, 2nd Floor, Rockville, MD 20850

Complaints: (301) 240-7777, ext. 8450, TTY: (301) 240-7777, ext. 8480

The commission will interview you about your allegation of housing discrimination. If appropriate, your case will be assigned to an investigator for a complete factual review. A conciliation will be held for the people involved in the complaint. If this fails and there is reason to believe that discrimination occurred then a public hearing will take place before a commission panel or a hearing examiner. A decision will be made either to dismiss the case or forward the complaint to the executive director for enforcement proceedings. The commission has helpful information on fair housing including brochures and community resources.

- **A local fair housing organization.** The Fair Housing Center of Suburban Maryland, (301.925.8223) provides many services related to ending housing discrimination. This includes using testers. This is just one of the dozens of local organizations devoted to ending housing discrimination. You can help create fair and decent housing opportunities for all by volunteering and earning SSL credits at one of these organizations. (For listings in Montgomery County, check out your teacher's "Fair Housing Resource Manual," the phone book, or www.fairhousing.org)

- **The U.S. Department of Housing and Urban Development (HUD)**

Fair Housing Enforcement Center

U.S. Department of Housing

And Urban Development

The Wanamaker Building

100 Penn Square East

Philadelphia, PA 19107-3380

(215) 656-0660

1 (888) 799-2085

TTY: (215) 656-3450

U.S. Department of HUD

Office of Fair Housing and Equal Opportunity

451 7th Street, SW, Room 5204

Washington, DC 20410-2000

(202) 708-0836

1 (800) 669-9777

TTY: 1 (800) 927-9275

<http://www.hud.gov/hdiscrim.html>

HUD can help you with any housing discrimination problem. You have one year after the alleged incident to file a complaint, but the sooner you do so the better (facts will be fresh, witnesses available, etc.) Generally, after receiving your complaint, HUD will investigate (at no cost) to see if there is reasonable cause to believe that housing discrimination did occur. If so, you or the respondent can decide whether you want the case heard in an administrative hearing or in federal court. If the respondent is found guilty of housing discrimination, s/he can be ordered to pay civil penalties (ranging from \$10,000 for the first offense to \$50,000 for repeated offenses), compensatory damages (money to the victim), attorney's fees, and/or face an injunction (an order by a judge requiring someone to do something like rent you an apartment). Brochures are available.

- **The Department of Justice/Civil Rights Division:**

The Department of Justice, Civil Rights Division, Housing and Civil Enforcement

P.O. Box 65998, Washington, DC 200035

(202) 514-4713

Contact the Department of Justice, if you think your discrimination is not an isolated event but part of a pattern or practice of discrimination.

ANSWER KEY: IS IT HOUSING DISCRIMINATION?

Note: This answer key examines whether these scenarios violate the Federal Fair Housing Act and/or Maryland and Montgomery County fair housing laws.

- a. A landlord of a ten-unit building refuses to rent an apartment to two men who disclose that they are gay and want to share a one-bedroom unit.
 - **Legal under federal and MD fair housing laws.** (No protections based on sexual orientation).
 - **Illegal under MC law.** (Discrimination based on sexual orientation).

- b. A landlord of a ten-unit building refuses to rent to a woman with children because she was evicted from her last apartment.
 - **Legal under federal, MD and MC fair housing laws.** (Financial risk is a valid reason to reject a tenant – just so it is not a pretext for discrimination based on gender or family status).

- c. A landlord of a ten-unit building refuses to rent to a person who practices what the landlord considers to be a “strange” religion.
 - **Illegal under federal, MD and MC fair housing laws.** (Discrimination based on religion.)

- d. A credit official discourages an elderly man from buying a house because the official thinks the man won’t live long enough to pay off his mortgage.
 - **Legal under federal FH law.** (No protections based on age but would be illegal under the national Equal Credit Opportunity Act.)
 - **Illegal under MD and MC fair housing laws.** (Discrimination based on age.)

- e. A landlord makes repeated sexual comments to a young female tenant, making it uncomfortable for her to live in the building.
 - **Illegal under federal, MD, and MC fair housing laws.** (Discrimination based on sex – extends to tenancy, not just refusal to rent.)

Handout 2-K

Name: _____ Date: _____ Period: _____

**WHO IS RESPONSIBLE FOR FAIR HOUSING?
Federalism and Fair Housing**

Directions: Identify the level of government (N-National, S-State, L-Local) and/or type of action (P-Private) involved in each of the following.

1. _____ **U.S. Department of Housing and Urban Development:** Enforces Title VIII of the Civil Rights Act. Funds programs that provide housing assistance.
2. _____ **Montgomery County Council:** Makes laws including fair housing laws.
3. _____ **Maryland General Assembly:** Makes laws including fair housing laws.
4. _____ **Montgomery County Human Relations Commission:** Enforces all county public fair housing laws. Investigates allegations of housing discrimination.
5. _____ **Housing Opportunities Commission:** Helps low and moderate income residents to rent or buy decent housing. Set up by the County Council.
6. _____ **Interagency Fair Housing Coordinating Group:** Strives to end discrimination in the sale and rental of housing through county multi-agency collaboration.
7. _____ **Maryland Suburban Fair Housing, Inc.:** Tracks housing discrimination in the county. Contracted by the Montgomery County government.
8. _____ **Homeless Shelters:** Provide shelter to people who cannot afford shelter or have been displaced because of an emergency. Run by churches and non-profits.
9. _____ **The Montgomery County Rental Assistance Program:** Provides financial assistance tot renters who cannot afford to pay rent.
10. _____ **The Department of Justice:** Ensures that people comply with the Fair Housing Act by bringing suit against alleged violators.
11. _____ **The Fannie Mae Foundation:** Works to provide decent and affordable housing and sponsors educational programs on topics like financing homes.
12. _____ **Casa de Maryland:** Strives to facilitate the self-development of Latinos by offering—among other programs—housing-related and legal services.

Bonus Points!! Identify five more housing resources that could help the people faced with fair housing problems. Please specify the address and phone number of the organization and WHY you think it would help the person(s) in your problem set.

You can locate helpful resources via:

- i. The internet (Hint: try www.fairhousing.org)
- ii. The Yellow Pages
- iii. "The Fair Housing Resource Guide" (ask your teacher for the class copy.)