

# Housing Discrimination Based on Disability Under the NYS Human Rights Law - YouTube

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Hi, my name is John Herrion, and I'm the Director of Disability Rights for the New York State Division of Human Rights. It's my pleasure to be with all of you today. I'll be covering the provisions in the New York State Human Rights Law that protects people with disabilities and how the New York State Division of Human Rights enforces those protections. So we're talking a little bit about the the protections in the human rights law, the types of housing discrimination that's prohibited under the New York State Human Rights Law. And we're talking about people with disabilities and how complaints get filed, how they get investigated, how we prosecute matters and ultimately enforce the provisions of the New York State Human Rights Law, which are designed to keep people with disabilities to be free from discrimination here in New York State. I'll be talking about housing today. We cover the New York State human rights law very generously covers housing providers.

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We cover both private and public housing. So public housing authorities are covered under our law. We cover rentals. We cover cooperatives and condominiums. Sometimes there is a mistake in understanding that co-ops and condominiums are also covered as housing providers under the New York State Human rights Law. So again, very generous coverage of housing providers under our law. The different types of housing providers that are covered, clearly owners and renters would be covered, but we also extend that coverage to managing agents, board of directors for co-ops and condos. Real estate brokers is a robust area that we work in when we're doing fair housing trainings, which as a matter of fact, month of April is fair housing month. And we're going to be doing a number of programs for which you can come to our agency's website, the New York State Division of Human Rights, and hopefully take advantage of of participating in.

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But we work with real estate associations across the state of New York. They're an important covered entity given their role really as the gateway to housing. So ensuring that real estate agents and brokers, Realtors understand their obligations under the law to ensure that people with disabilities are given equal opportunities to find housing is something that we we focus on very much. And then again, the broad coverage exists as you see here in the next bullet when we're talking about any person really having the right to sell, rent or lease a housing and accommodation or any agent or employee of of the above mentioned covered entities. When we're talking about who's protected, we have a wide, again, a wide variety of protected classes under the New York State human Rights law. You can see many of them are mentioned here, race, color, national origin disability, which is what I'll be talking about today. Sexual harassment is also prohibited under the New York State human Rights law. So although people may think of that in the employment context, it also

exists in the housing context and housing providers are prohibited from sexually harassing tenants on their premises. Disabilities. When we're talking about the types of cases our agency sees, while the majority of the complaints that get filed with the agency focus on employment, housing comes in very clearly at #2 and over half of the complaints that are filed alleging housing discrimination include allegations of discrimination based on disability. So we see a fairly high level of high volume of, of cases that come into the agency when we're talking about housing discrimination, which include allegations of discrimination based on disability. Some of the newer, protected newer classes that have been added to the New York State human rights law.

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Gender identity or expression source of income is another area where we see a fairly high volume of complaints. And, and this certainly would impact upon people with disabilities who may be relying on certain types of income to pay for their rent, might be Social Security disability payments. It could be payments related to different types of disabilities, different types of funding sources. And for a housing provider to tell a tenant or prospective tenant that they will not accept their application or accept them as a resident because they're relying on this type of income to pay their rent is unlawful in the state of New York. We also cover prior arrest records and, and recently added his immigration status. So the word in our, in our law is human human rights law. It's not restricted to, you know, covering New York residents or New Yorkers or Americans. The word is human.

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So we do not get involved in reviewing or asking for citizenship status information. And indeed, if someone is discriminated against based on their immigration status, that is a protected class here in New York State. Another resource the Division of Human Rights provides to this community is certifying applications for you or T visas, which are pathways to citizenship for members of the immigrant community who've been the victim of a crime or trafficking. If you filed a complaint with our agency and we have jurisdiction over the matter and we can connect that with some type of criminal activity, we can certify an application for you or TV Visa.

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We can also provide statements of interest to the Department of Homeland Security to ask for deferred prosecutorial action in order to keep somebody here safely while an investigation and prosecution of a human rights law violation is going on. So I'd like to share that information. If you're working with people who are in the immigrant community who have those issues or who have experienced discrimination or who may be reluctant or anxious to come to a government agency, understandably worrying about their immigration status, that you should be made clear that that's not a concern. They should have given our protection of individuals based on their immigration status and the role that we play, the roles that we play really to assist this community. So we're going to talk back to disability. So important take away is how do we, how do we define disability under the state human rights law? Who's covered? What types of impairments are covered? Very

generous. Again, definition of disability under the state human rights law talks about physical, medical or mental impairments.

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Record of such an impairment or even if you are perceived, you know, a housing provider makes an assumption or a stereotype about you or stigmatizes you in some way and it's based on a perception that you might have a disability and they take adverse action based on that perception. They deny you housing, threaten to evict you. They can't then fall back on oh, well, you really don't have a disability. So you really are not protected by the law. If you, if an adverse action is taken against you based upon a perceived impairment, you're, you can be covered under the law. And again, very few cases that come to the agency are dismissed because somebody's not considered disabled enough to meet the standard. Very few, if any really not to meet the standard of, of, of, of the definition of disability under the New York State Human Rights Law. So we get some more so focus on whether or not discrimination took place, which is where I think the, you know, the emphasis should be.

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So here's a distinction kind of a take away for from today's presentation is the difference between the federal standard. So the federal Fair Housing Act covers people with disabilities. Another point to make here is sometimes housing providers and advocacy groups, you know, tend to focus or fall back on the Americans with Disabilities Act, you know, which is a premier law that protects people with disabilities across the country, but it's application to housing is very limited. So the two laws that work that we focus on are the New York State human rights law, which includes the housing protections I'm talking about today and in many ways mirror the federal Fair Housing Act, which is a federal law that protects people from discrimination across the country. But this is 1 distinction and that's it. It's an important one because it has to go it it goes to who's covered, you know, So what is the definition? What's the standard to meet for a federal case is a bit higher than the state standard.

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Under the federal Fair Housing Act, you need to have a substantial limitation of a major life activity. So although there's a lot of words in this slide, you don't see the phrasing substantial limitation, you don't see the phrasing major life activity. But under the federal Fair Housing Act, that is a threshold that has to be met. So there's a bit more scrutiny that's done on the federal cases as to how disabled an individual is to meet the protected class requirements. So something to keep in mind if you're helping assisting somebody and maybe there's a question there on the, you know, the, the impact of the disability on the individual, might be safer to go with the New York State human rights law complaint in those instances. So what's prohibited? Well, pretty clear upfront, you can't refuse to sell or rent housing accommodation because of a disability, but you also can't discriminate in the terms or conditions or privileges of the sale, lease or ownership of a housing accommodation because of that individual's disability.

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So it doesn't have to raise itself to the level of an eviction or a refusal to allow somebody to move in because of a disability. While clearly both of those, you know, would be unlawful, it can be just diminished terms and conditions of where I'm living. So, you know, we sometimes get cases that are like heat and hot water or repair cases, you know, complaint that the landlord is not providing heat or hot water or is not providing repairs, you know, on a timely basis. And, you know, one of the tools our, our investigators have at their disposal is gathering comparative data. So that means they can actually interview other residents that are at the premises and find out what's going on. So if we get one of these, you know, terms and condition cases, you know, the, the, the living conditions of where I'm at are being diminished in some way, We can ask other residents, what is your experience been like? You know, are you getting heat and hot water? Are you getting your repairs taken care of on a timely basis?

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And you know, typically one of two things is realized. The 1st is that maybe the situation is that this is a bad landlord for everybody. You know, nobody's getting heat or hot water or or getting repairs made. This is a bad landlord, but not one who's necessarily discriminating against somebody because of their disability. So there may be other agencies that would want to take a look at that. Alternatively, we might find that it is indeed the family who maybe has a child who is living with a disability or an adult who's living there with a disability and the landlord is diminishing, you know, the the quality of life there in certain ways with the hopes of getting that family out and getting them to move. So, you know, if that's realized, then we have a different course of action to take, you know, at the agency. And this this also touches on another question I often times get asked. People will ask, you know, how do I prove it? How do I prove that I've been discriminated against? And you know, my response is it's not your job to prove it.

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It's your job to tell us what happened. And our investigators are trained to gather the information that they need to make a determination to find out whether or not discrimination took place or not. So some things to keep in mind here in the third bullet also there's prohibitions against the advertising that uses any form of, of or makes any type of direct or indirect limitation or specification and also forms and applications. This is an important part of our, of our work is ensuring that housing providers who, you know, have a application form which is perfectly lawful to have are not asking impermissible questions on the application form. So asking questions like, you know, list any medications you're taking, any type of family history or you know, mental or medical disabilities, all of those are impermissible inquiries.

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Now, there, there is certain types of no, there are certain types of housing that's, you know, maybe dedicated to people with developmental disabilities or different types of disabilities. And if, you know, if they're dedicated to that, to that community, clearly they would be given the, you know, the discretion to ask whether or not

somebody meets the criteria to move into that house. And again, if it's dedicated to people who are living with those conditions, but absent that, asking questions about disability or medications is off limits and against the law. And indeed, we had a case here that I like to share on that emphasizes that it was a landlord who was asking one of the inquiries on the application form was to list any medical, any medications that you're taking. And the, the person who was filling out the application was living with HIV and he listed the medications he was taking to treat his HIV. And landlord was able to, you know, discern what was going on and denied the, the housing application person filed a complaint with our agency.

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And when the case got in front of a judge, the judge asked the, the landlord, why would you have this kind of an inquiry on the, on the application? And the landlord responded, will I like to, to know if I find a tenant who's incapacitated, I'll be able to know what the problem is. And of course, that didn't pass the straight face test. And the, you know, the judge said, you don't get to play doctor here. You call 911 if you find somebody incapacitated. And we, you know, we did, we did order significant civil fines and penalties in that case, punitive damages as well. So you know, in those instances where a housing application is being used to vet out people with disabilities, you know, from the onset we are interested in those cases. This was a case where the individual filed the complaint. But we do have a division initiated investigations unit which is dedicated to pattern and practice type discrimination.

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And one of the, you know, one of the issues for them could very well be a, a housing application case because the likelihood of, of a, a housing application being in one person's hands is it's going to be in a lot of people's hands. And those kind of inquiries being used to vet out people with disabilities clearly could be a pattern or practice of discrimination that a housing providers engaged in. So if in your work you come across such an application, please do share it with us. I also want to take a moment here to talk about retaliation. And, you know, so I often times get asked, can I file a complaint anonymously? And the answer is no, because we need to be able to serve that complaint on the landlord or the housing provider. And we, we, we need to get a response to the allegations. And, and you know, in those instances, we, we need the person to put their name on the complaint. Now, what does that mean?

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It means that the individual is protected from retaliation once that complaint gets served on the landlord. So if the landlord of the housing provider gets a copy of the complaint in the mail and thinks, well, that's it, that's the last straw. I'm, you know, I've been wanting to get rid of this person anyway. I'm going to, I'm going to evict them or retaliates in some other way, shape or form that's a lawful that's against the law. So I've seen cases where the underlying claim has fallen apart. You know, we haven't found discrimination in the original complaint that was filed. But subsequently, that retaliation that took place, that unlawful retaliation that happened is something we can put the, you know, we can put the landlord or the housing provider on the hook for. So if you have clients who are reluctant to put their names

on a complaint, but they're experiencing discrimination, you know, this is another point you can emphasize that you're protected against retaliation. It also extends to witnesses.

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So if if a tenant is, you know, wants to rely on a neighbor to maybe give testimony, maybe you know, he or she saw or heard what happened, what occurred and would offer some witness testimony or other type of evidence to support the allegations in the complaint, that witness is also protected. So again, to a couple of items there. 1 is we don't take anonymous complaints. However, if there's a pattern or practice of discrimination that can be shared with the agency and our division initiated investigation unit essentially can become the complainant in that case. But it has to be a pattern of practice discrimination for that to occur. And if somebody is really reluctant to file a complaint against their landlord, which is completely understandable, we'd like to emphasize that they are protected against retaliation. So all important points there. So I'm going to talk a little bit here about the obligation for reasonable modifications and reasonable accommodations. So, you know, when you're looking at civil rights laws, they are designed to protect people based upon their memberships in different protected classes.

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So clearly all of those protected classes are protected from like a denial of service, a denial of housing, a denial of a job opportunity because of their national origin, their race, their religion, color, their skin, disability. So that prohibition against the denial of service or opportunity is inherent throughout all of those protections. An additional protection that's offered for people with disabilities is the concept of reasonable accommodation and reasonable modification. So this is this is like an affirmative obligation on a housing provider to do something more or to change something in the way they do modify a rule or a policy to ensure that a person with a disability can use and enjoy their home. So that's what I'm going to take us through here for the next couple of slides. So the first type of of change we're going to talk about our reasonable modifications and those are typically structural in nature.

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So installing a ramp, widening a doorway, doing something structural, you know, to the premises to make it accessible for a person with a disability is what's required here. So just taking you through the slide here a little bit, it says housing providers must permit at the expense of a person with a disability for reasonable modifications of existing premises occupied or to be occupied by such person if the modifications are necessary for full enjoyment of the premises. So let's move through that a little bit. So it says housing providers must permit. So in order for there to be permission, there needs to be a request, right? So you know, if, if a house, if a resident or perspective resident, right, we're talking about premises occupied or to be occupied, anticipates needing an accommodation or is living there and needs the the modification, they should put the landlord on notice. You know, that this is what they need. And if they get a refusal, that's when there's been a, you know, that that's when there's been something unlawful occurring.

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So a lot of times I get asked, well, how much time should I, you know, allow for between my request and certain amount of time is going by, you know, there's no black and white answer to that. Then, you know, like two months equals an unlawful, you know, denial. But we do want to see that the, you know, that the housing provider is acting in good faith. You know, sometimes structural modifications may require permitting or may require getting estimates for the work that needs to be done. And that can take some time. So, but again, you know, I often times leave it to the complainant. Or if they feel that they've been ignored for a certain amount of time or they've got an outright denial, that's when they can file a complaint with our agency. So following that we have at the expense of a person with a disability. So another question that often times get asked is who pays, You know, who pays for this work? And so we answer that question with a question which is where is the work going to be done? If it's the interior premises of the unit, so kitchen, bathroom, living room, you know, anything inside the unit, it's at the expense of the person with a disability, the person who's residing there.

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So that means that landlord cannot deny permission, but the landlord's not obligated to pay for those modifications. There are certain revenue sources that do provide assistance or payment for some of these modifications for different groups of individuals. I know that Department of Veterans Affairs, if you have a veteran that you're working with, with a service connected disability, meaning that the disabilities related to their service in the armed forces, they have funding available to make modifications that might be necessary to make that Veterans Home accessible to them. And you know, as housing navigators, it's probably worthwhile for you to, to do some homework on that to find out, you know, are there agencies out there that do providing funding, do provide funding for this type of work to be done? Because that can be helpful for somebody who may not otherwise be able to pay for it. We talked about existing premises occupied or to be occupied.

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So existing premises, that means that landlords who like to, or housing providers, you know, that may say, oh, our building was grandfathered in. It's, it was built before your law was written. We are not really, that is not persuasive, right. So then the nature of the investigation is does the premises exist? And if the answer is yes, we have you covered by the law. That's it. Occupied. So I'm living here and I need the accommodation or to be occupied. I'm going to be moving in and I have, you know, my son uses a wheelchair. So I'm going to need different type of work to be done to make the, the unit accessible. And we're talking also about full enjoyment of the premises. That's right there in the statute. That's that phrasing comes right from the statute. So, you know, when we get cases where somebody might be asking for that ramp and the housing provider says, you know, we have a ramp, it's it's already here on the premises. We will send our investigators out to do site visits.

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And sometimes they do find that ramp, but you know, it's at the back of the building and it's where all the garbage gets taken. Now, you know, past the boiler and you know this, this is not full enjoyment of the premises. You know, somebody with a disability really should be afforded the opportunity to go in and out of the front door just just as everybody else does. So those are some of the the concepts there in reasonable modifications. We talked about some of these examples, right. Widening doorways can be mean adjusting fixtures or counter heights for somebody who uses a wheelchair or installation of grab bars is another common form of reasonable modification. We mentioned earlier that if it's the interior of the unit that the modification needs to be done and that the person with the with the resident needs to be able to pay for it. Big distinction with the New York State human rights law is if it's in a common area.

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So if it's the front entrance to an apartment building that's commonly used by all the residents to get in and out and there's a step there, you know, removing that step and putting a rampant is going to be at the expense of the housing provider. So that's, that's that question. We, we answer the initial question with right, who pays? And then the follow up is where are we talking about? We're on the premise this is the modification going to be done. Oh, it's the interior of the unit. Okay. The person, the resident there has to pay for it. Oh, it's a common area. It's the front door or it's a parking area or recreational area or maybe a laundry area, you know, an area commonly used by other residents of the the premises there. We're talking about the landlord having to pay for the modification. And again, it's so long as it's reasonable, you know, we are not in the business of bankrupting housing providers, but we will ask them to, to prove that, you know, the the cost of the modification results in an undue hardship on their operations. But we will ask them to show proof of that, you know, if that is indeed the case. Also, we might look at temporary ways to to provide accessibility.

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So maybe a portable ramp being made available will be a less costly option to assist somebody with a disability to use their home. OK. So we talked about modifications which are typically structural in nature, but there are also reasonable accommodations which we're talking about changing a rule or a policy or a practice. So we we keep that installation of a ramp in a common area in this section of the law because even though it's structural, it's not at the expense of the person with a disability, right. We saw that in the earlier slide. We're talking about reasonable accommodations. There is no mention about the expense of the person with a disability. So that's where that section got slipped in. Let's talk about other types of policies though, that can be modified, right? Waving a no pet policy. So having a no pet policy is perfectly lawful. There's nothing unlawful about a landlord who has a no pet policy.

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But if somebody with a disability needs a service animal or an assistance animal or an emotional support animal, in those instances, a landlord may be required to waive



that no pet policy to allow the person with a disability to live with their assistance animal. Parking is another fairly common accommodation request. Asking for a parking space to be made available closest to ones unit to accommodate typically a mobility impairment is something that's typically asked for. Usually we're talking about parking. We get it. We, they're different types of responses we get to a parking request. You know, one is typically landlord might say, well, we have accessible parking, you know, and the, and it's first come, first serve. And that might not, you know, that might not accommodate this particular complainant who needs the spot designated for him or her in order to get in and, you know, get access to their to their unit in the closest way possible.

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So even though there's an availability of spots that, you know, on a first come, first, first come, first served basis, that may not accommodate this particular individual and we may require that landlord to designate a parking space for that person. The other response we also typically get is, well, all the spots are taken. You know, we're not in the business of moving somebody out of a spot, but we can put the person with a disability at the top of a waiting list so that when that spot does become available, the person with a disability is is at the top of that list to get to get an opportunity to use it. So those are some of the the types of policies that we're talking about, accommodating somebody with a disability to once again be able to use and enjoy their home. IN2022A law was passed requiring notice be provided. So this can be an area of inquiry if you're working with clients with disabilities, you know, have they been provided with notice that they have a right to request reasonable accommodation? That was added to the law in order to educate people, you know, with disabilities as to what their rights are under the law.

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A lot of times they may not know any of this information I'm sharing with you today that they have a right to request, you know, a ramp to be installed or hand rails to be installed or a kitchen or a bathroom remodified or, you know, gosh, I'm moving into a, into an apartment with no pet policy. I really, I hope they don't find out that I have a, an emotional support dog, you know, and eventually it gets found out. But so the idea there is to is to affirmatively require housing providers to put tenants on notice that if they have a disability and they have a disability related need for an accommodation, they can ask for one. So let's talk about animals a little bit more because I get this is an area where we get a lot of questions and sometimes there's some confusion between what housing requires and what places that are open to the public require. So if we're talking about guide hearing or service dogs and the word is dog, we have explicit protections in the human rights law for people who use professionally trained guide hearing or service dogs.

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And, and typically in those instances, a guide hearing or service dog will go where the person goes. We're talking about service dogs that are professionally trained. You know, it could be there are different agencies and entities out there that train dogs to provide different types of services for people with different types of disabilities. It

can be to alert them to take medications, alert them to different types of manifestations of their conditions. There's a lot of services dogs provide for people who are living with autism, you know, that accommodate their disability to improve the quality of their life. So again, if we have a professionally trained dog, if that's the nature of the animal, that is something that has explicit protections under our law, it does not mean that we stopped there, right? So what happens if I don't have a dog or what happens if what I should say, what happens if it's an animal other than a dog or what if it's not been trained? It's an emotional support or assistance animal, right?

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And typically, you know, we're talking about emotional assistance. We're not talking about any type of certificate or training. Usually it's the nature of the relationship that the person has between themselves and the animal they're taking care of that improves the quality of their life and diminishes the impact of maybe depression or some other type of psychiatric condition they're living with. There's a lot of medical literature that supports the fact that somebody who's taking care of an animal, the relationship that they established with that animal can definitely improve the quality of their life. So emotional support animals are considered reasonable accommodations in housing. There is some confusion often times around places that are open to the public. So I usually phrase this with where am I standing? If I'm standing in my home, I have the right to an emotional support animal.

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If I'm going out into public, I'm going to a restaurant, going to Walmart, going out to do some shopping, I'm going to see a show, going to see my doctor. Emotional support animals are not required by either the state human rights law or the Americans with Disabilities Act. So that's an important distinction to be mindful of important distinction not to get confused. And that, and respondents typically will do this. They'll, they'll cite to the ADA and say, oh, it's not it's, it's not a dog or it's not a service animal. It's an emotional support animal. And the ADA doesn't require, you know, covered entities to allow emotional support animals. And while they're correct about that, when I'm standing in a Walmart or a place that's open to the public, I'm not standing in my home, they have it wrong about housing. Housing's a broader universe of animals and a broader universe of services. So again, emotional support animals are in when we're talking about about housing accommodations.

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I think I covered up quite a bit of this slide, but a couple things I want to touch on are the what you know, what, what does a landlord have a right to right? So I'm asking a landlord to waive a no pet policy, You know, and this is typical where the disability maybe not be visible, right? So again, somebody's living in a psychiatric condition, maybe depression, something on those lines, something that's invisible and they, they are asking the landlord to waive a no pet policy so they can have an emotional support animal. Again, remember the word is reasonable. So the more exotic the animal becomes, the less reasonable it may be. You know, the emotional support king cobra may not carry the day. And the other part of it is you need medical documentation to support the need, right? So the two things our investigators are

going to look for are is 1 is the medical documentation support the fact that the person has a covered disability, which again we said is very generous in terms of who's covered.

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And secondly is, is there a, is there a medical documentation to support that there is a disability related need for the animal? And we need an answer, we need to answer both of those questions affirmatively in order to establish an obligation for the housing provider. Is there a disability? Yes. Is there a disability related need for the animal? Yes. So it's not just somebody with a disability who who would like to have a dog or cat as a pet. It is somebody with a disability who needs that animal to accommodate their or disability. So landlords can ask for medical documentation to support both of those items. Again, where am I standing? This sometimes gets confused with places that are open to the public where the owner of a business, right? Not a landlord or housing provider. The owner of a business that's open to the public is only allowed to ask two questions. Is it a service animal? What kind of service does it provide? OK, sometimes people get that confused and say, oh, the landlord asked for medical documentation. They're not entitled to that.

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That's correct when I'm standing in a Walmart or standing in a restaurant, not correct when I'm standing in my home. If I'm in my home and I need that no pet policy waived and I'm asking for an emotional support animal to live with me, landlord can ask for medical documentation to support that there's a disability and a disability related need for the animal. And indeed our investigators will be asking for the same. OK. We're talking about restrictions. Landlords are prohibited from making any kind of restrictions as to the type of animal, the breed or size or assessing fees for someone because they have somebody with a disability who needs an emotional support animal because of that disability or another type of service animal I should include there. So again, landlords are allowed to have, you know, pet policies or no pet policies.

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And maybe the pet policy at this particular premises is you can have a dog or a cat, but it has to be less than 20 lbs or it has to or we don't allow these types of breeds, you know, Dobermans or pitbulls or some breeds that are maybe not desirable according to that housing provider, though, that's all. That's all lawful, OK. But if somebody with a disability needs to use a larger dog, maybe a guide dog who's larger or an assistance, an emotional support animal or an assistance animal that doesn't fit that criteria or is outside the restriction, landlord again cannot rely on that pet policy. Emotional support animals, assistance animals are not pets, OK? They are something different and need to be treated as such. So, you know, assigning a fee for a pet, that's fine. Signing a fee for somebody who's using an emotional support animal, not, not fine.

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Another thing I should touch upon here because we often get these instances is a

landlord will condition allowing a, you know, an emotional support or an assistance animal with, you know, like a guarantee of insurance or something that the person, the tenant will take out an insurance policy in case the animal bites or harm somebody or does some type of destruction of property. That's unlawful because that that gets into the terms or conditions. If you recall earlier we talked about landlords are prohibited from diminishing the terms or conditions of where somebody lives because of their disability, right? This is not just somebody who wants a dog or a cat to have a pet. This somebody, this is somebody who needs that, that assistance animal because of their disability. So assigning a term or condition to it, take out an insurance policy, pay a premium, pay a fee, put down a deposit, all of those things might be OK for a pet. Again, an emotional support or assistance animals, not a pet. And and that type of that type of conduct by a housing provider is prohibited. So things to be mindful of when we're talking about assistance animals here for people with disabilities. So getting away from cats and dogs and getting into construction if we have units that are newly constructed in our multi family. So what is newly constructed mean? Anything after March 13 of 1990?

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One and anything that has any type of dwelling that has three or more families, OK, under the federal Fair Housing Act, it's four or more state human rights, a little bit more generous, 3 or more families. We are going to be covering that premises as new construction and they have affirmative obligations to be designed and constructed in a way that's accessible for people with disabilities. What does that mean? It means that public use and common use portions of the dwellings are readily accessible and usable by people with disabilities. We have to make sure that the doors are designed in a wide enough, you know, with a certain width that would allow a piece people who use wheelchairs passage through those those doors and then also accessible routes through into and through the dwelling to somebody who parks a car and a newly constructed, you know, development and uses a wheelchair.

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There needs to be an accessible route from that parking area, no curbs, no steps to the ground floor entrance of the of the building. Again, this is another area that our division initiated investigations unit would be interested in. So if in your work you hear about brand new development going up in the community, multi family housing, lots of units going to be available and none of them are accessible, they have violated the the New York State Human Rights Law and the Federal Fair Housing Act requirements for new construction. So that's something we would like to know about. And even though you may not have somebody who's aggrieved, you know, somebody with a disability is trying to move in, if that is the case, let us know anyway so that we can take action to address that. You know, it should come as no surprise that the availability of accessible housing is really limited here in New York. So when new construction, you know, goes up and it doesn't address, you know, it doesn't include accessible design and construction, that only exacerbates the issue. So those are issues. Those are instances we would like to to be made aware of.

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Other requirements here are, you know, internal inside the unit making sure that light switches and outlets and thermostats are in accessible locations. And then sometimes folks think grab bars need to be installed in these units. It's not the case under the under the design and construction requirements in the bathrooms. It just requires reinforcement is in the bathroom walls. So if somebody's looking to install grab bars in a newly constructed, you know, bathroom in a, in a, in a newly constructed dwelling and there's no backing, you know, there's no support for a grab bar, which needs to be able to support full weight. That can be a violation of the law. But if it indeed is there, then they've they've met their requirements. So let's talk about complaints and what type of complaints do we get at the agency? So as I mentioned earlier, employment cases make up the majority discrimination complaints, but the housing complaints come in 2nd.

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And then again, over half of the housing complaints that are filed with the agency include allegations of discrimination based on disability. So I covered that at the beginning. And then, and then looking a little bit deeper, you know, what are the types of disability discrimination complaints that we get? It's typically the refusal to reasonably accommodate. So those are the type of cases we're usually involved in. How do I file a complaint with the agency? Well, we have our complaint forms available at the at the website that's here. I did share with the Alliance that they are free to share these slides with participants in this training. So you'll have this information handy for you and it's our website here where we have a contact information for our regional offices and also where our complaint forms are available. Regional offices around the state will refer housing complaints to our housing investigations unit, which is located in in our headquarters, which is in the Bronx, NY.

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That doesn't mean if you have a housing complaint in Rochester or Buffalo or Albany or somewhere else around the state of New York that you need to plan a trip to the Bronx. Not necessary. We do all of these investigations over the phone, through e-mail, you know, virtual as, as as needed. But that's where the complaint will end up physically is with the housing investigations unit. You can file a complaint with either division or in state court. You can't do both. OK. You may also have local commissions in your communities, which are a great resource, but you should know what type of, especially as a housing navigator, you know, what type of remedies do these local commissions, the county commissions have at their disposal. Some do have strong, you know, remedial powers to remedy discrimination. Others not so much. So knowing, you know, what the county commissions can do is helpful. And then knowing like, you know, you know, maybe there is somebody at the county level that you have a connection with that you can, you know, you know, that you know, will handle the complaint in an effective way.

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But, you know, absent that, filing with the state Division of Human Rights includes the remedies that we can, you know, that we can enforce. But again, you can't file in

multiple venues. You have to select one. OK, so statute of limitations was just recently changed. So effective February 15th, 2024, the time to file the complaint was extended to three years for any allegations that accrue or happen on February 15th through 24 or later. So anything from February 15th, 2024 into the future. So February 15th of 2027, we can look back three years now as to whether a violation of human rights law happened, Anything that happened, any type of discrimination that happened prior to February 15th, 2024, it's still a one year statute of limitations that we can look back. OK, Something to keep in mind. So what happens once the complaint gets filed? Well, there's an investigation, OK.

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And in that investigation we talked about comparative data being made available. But typically what happens is once the complaint gets filed, it gets served on the housing provider or the the entity that's that has been alleged to have engaged in the unlawful conduct. We will demand a written response to those allegations and the complainant will be asked to submit a rebuttal. So complainant will see the response and have the opportunity to rebut the allegations in the complaint. I'm sorry, rebut the position of the housing provider. So maybe there are things that are shared that are not true or inaccurate and that's an opportunity for the complainant to clarify those concerns. Once all of the information has been gathered by the investigator, they write a report and they make a determination of probable cause or no probable cause.

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Probable cause means there's enough there to credit the allegations in the complaint and doesn't necessarily mean complainant has won, but it does mean that the case will now go to our prosecution's unit and that is staffed with attorneys who prosecute these cases. So a couple of advantages of filing with the New York State Human Rights Division. There's no filing fee. You know, if you go into state court, you are going to, there's going to be a filing fee and you really should have a lawyer when you go into when you go into the state court here at the Division of Human Rights, we're an administrative law enforcement agency. So all of the remedies that you would find available in state or federal court are also available at our agency. But again, the advantage complaints have is that they don't, there's no filing fee and they don't need to have an attorney if you file a complaint with our agency. Some complaints do come with their own counsel. That's fine. But if that's not the case and you get a probable cause determination for your complaint, crediting the allegations in, in the complaint, we have a prosecution's unit that staff with attorneys will prosecute this case.

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Many cases settle, OK. Once the probable cause determination is made, the housing provider may take this a bit more seriously and want to settle the matter. And you know, that's always, that's always a possibility during the course of the, of the, of the, of the process of the case. Otherwise it would go to a hearing before an administrative law judge, which is we is in house in the agency. We have a hearings unit which is staffed with administrative law judges hearing officers and they hear these cases where there's, you know, it looks like a courtroom, direct testimony, cross

examination, There is a record of the matter that's kept. And after all of the all of that evidence is shared, the administrative law judge makes a recommended order to our commissioner and then our commissioner's order is final.

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So that's the commissioner really ends up being the, the final arbiter of, of, of the case once it's been once it's wound its way through the hearing. So what are the remedies that are available? So if there is discrimination, if it's been found that the covered entity has engaged in unlawful discrimination, we can make the housing an issue available, any types of reasonable accommodations, right? So somebody who needs a ramp, having a ramp installed, waving that no pet policy for somebody who needs the emotional support animal. Any type of compensation, right, for any type of mental anguish that was endured or suffered because of the discrimination is a remedy that's available. Any type of out of pocket expenses, right? I had to spend money to do the modification myself to a common area. It shouldn't have been my expense that could be reimbursed. Punitive damages for housing cases, civil fines up to \$100,000. We we require housing providers and staff to attend anti discrimination trainings to ensure that this doesn't happen again.

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Clearly we can order, you know, the cessation of any type of discriminatory actions or policies and attorneys fees are also available. So that can incentivize attorneys to take these cases on because they can get paid by the other side if they prevail. Last couple of slides here are contact information slides. So again, I've told the alliance they can feel free to share this information with attendees. So we have some general information there about the division. There's a phone number here 1883923644. We have an [info@dhr.ny.gov](mailto:info@dhr.ny.gov) where you can get information. My direct contact information is also here. Share on this slide my e-mail address and my phone number. I'm happy to be a resource for interview. Once a complaint gets filed, it really does have to, you know, kind of go through the process and the investigator is more in control of it than I am. But, you know, happy to be a resource to answer any questions folks have. And then this is just some more general information about how to contact the agency.

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We have a social, social media presence on Facebook and and other places so you can come check out and see again what you know what if you're interested in housing programs, April is for housing Month. We have a couple of programs in the works and would be hopeful for you to join us. And that is the end of my presentation. So thank you once again for having me.

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