

Fair Housing ... It's the Law! How Fair Housing Laws Protect Tenants with Disabilities

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Y E A R S



Slide 2

Fair Housing in California

Federal Law - Fair Housing Amendments Act of 1988

- Prohibits discrimination based on race, color, religion, sex, national origin, disability and family status.

California Law - Fair Employment and Housing Act

- In addition to the above, also prohibits discrimination based on marital status, ancestry, sexual orientation, gender-related, genetic information and source of income.

California Law - Unruh Civil Rights Act

- Prohibits many kinds of housing discrimination, including discrimination based on age.

Slide 3

Fair Housing in California

The law prohibits discrimination based on:

- Race
- Religion
- National origin
- Color
- Sex
- Gender, gender-identity & expression
- Physical and mental disabilities
- Ancestry
- Family status
- Sexual orientation
- Source of income
- Genetic information
- Age
- Marital status

Slide 4

In California, what is a disability under the law?

- A limitation on a major life activity – a disability makes a major life activity difficult
- Working and mental, physical and social activities are major life activities

Is alcoholism or addiction to illegal drugs a disability?

Current alcoholism, past alcoholism and past drug addiction are disabilities.

Current illegal drug use is not a disability.

Slide 5

What does the “FAIR” in Fair Housing Mean?

Race, color, religion, sex, gender & gender-related, national origin, family status, sexual orientation, ancestry, source of income, genetic information

- Everyone should be treated the same.

Mental and physical disability

- People with disabilities should be treated the same, EXCEPT, it may be necessary to make reasonable changes to rules to enable them to live in their housing.

Slide 6

When is a Landlord Unlawfully Discriminating?

- Some discrimination is intentional.
 - “I don’t rent to people in wheelchairs.”
- “We don’t want any weirdos here.”
- Sometimes policies have a disparate impact on people with disabilities.
- a policy or practice that effectively makes an opportunity less accessible to people with disabilities
 - “no pets allowed”
 - “to apply, visit the office”

Slide 7

What Makes an Accommodation Reasonable?

A change in the rules to help a person with a disability access housing or housing-related services is reasonable if it:

- Is necessary due to the disability,
- Provides the person with equal access to housing, AND
- Does not impose an undue administrative or financial burden, OR fundamentally alter the nature of the program.

Slide 8

The Reasonable Accommodation Request Process

- Tenant must request the accommodation.
- The landlord can ask the tenant to provide verification of the disability and disability-related need for accommodation.
- If the connection between the accommodation and the disability is not clear, the landlord can request more explanation, but cannot demand medical records, diagnoses, or independent evaluations.
- Tenant may request multiple accommodations.
- Tenant may request accommodations at any time—during application, tenancy or eviction.

Slide 9

When is an Accommodation Necessary due to Disability? When is there a Connection?

Ask: Is there a connection between the accommodation requested and the limitations of the disability?

Examples:

- Can a tenant use a side door for entry because the tenant's disability makes contact with people frightening? The side door limits contact.
- NOT: Can a tenant use the side gate because the main gate is inconvenient and tenant has depression? Is there a connection? If not, the requested accommodation is not necessary due to disability.

Slide 10

When does an Accommodation Request Impose an Undue Burden or Fundamental Program Alteration?

Undue Burden – The request is too difficult or expensive.

- Example: Landlord cannot expose tenants to fire hazard to accommodate hoarding.

Fundamental Alteration – The request undermines the purpose of the program.

- Example: Landlord cannot be expected to walk or feed emotional support animal.

Slide 11

What if the Initial Request for Accommodation is Denied?

If a landlord refuses a request because it is not reasonable, the landlord must invite discussion about alternative accommodations that would address the tenant's disability-related needs.

Housing providers **MUST** work with tenants to explore options that would reasonably meet the tenant's needs and not result in a fundamental program alteration.

Slide 12

What is a Reasonable Modification?

- This is a change to the building or unit that allows a person with a disability to access or use the housing.
- With certain exceptions, tenant must pay for the modification and provide funds to restore the unit to prior condition if the changes could interfere with next tenant's use.
- Modifications must be correctly installed and comply with codes, e.g., shower grab bars.

Slide 13

How does a Landlord Determine Who will be a Good Tenant?

- A landlord can inquire about tenant history and tenancy-related behavior, such as evictions, credit history, income, criminal background, etc.
 - SO LONG AS these standards are applied equally to all applicants.
- A landlord cannot ask about a tenant's disabilities because the landlord thinks the disabilities might affect tenant-worthiness.
- A landlord cannot make assumptions about how a tenant might act based on the tenant's disabilities.

Slide 14

Making Decisions Based on Actual Behavior is Different from Responding to Stereotypes

- Making decisions based on stereotypes of how one thinks a person with a certain disability will behave violates the law

BUT

- Making decisions based on actual behavior-as-a-tenant is legal
 - Fair housing laws do not mean that people with disabilities can behave in ways that interfere with other tenants' enjoyment and use of their property.

Slide 15

How Should the Application Process Work in Supportive Housing Programs?

- The housing staff do INITIAL intake applications. Questions asked are limited by fair housing laws.
- After acceptance into the program, the supportive services staff may ask more detailed questions to ascertain service needs.

Slide 16

Housing Programs Funded to Serve People with Disabilities

If the housing program is specifically funded to serve people with disabilities, the staff may request confirmation that applicants have the qualifying disability

BUT

they cannot request additional information about the disability.

Slide 17

Can a Landlord talk about my Accommodations with other Tenants?

- All application, tenant and guest information about disabilities is confidential.
- A landlord may not disclose that information to anyone.
- A tenant can authorize release of the information, but is not obligated to release that information.

Slide 18

Who is Obligated to Comply with Fair Housing Laws in California?

- Fair housing laws prohibit everyone from discriminating against or harassing neighbors.
- If a tenant experiences serious harassment by another tenant, he/she can notify the landlord in writing of the problem.
- The landlord should investigate the complaint.
- Mediation by third parties can be helpful.

Slide 19

For More Information

Contact:

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For an intake or if you have questions, call us at 213-389-2077.

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