



SAN DIEGO
HOUSING
COMMISSION

San Diego Housing Commission Principles of Fair Housing

Civil Rights Office
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Principles of Fair Housing

What Everyone Needs to Know About Fair Housing



What is Fair Housing



Fair housing is the right of all individuals to obtain the housing of his or her choice, free from housing discrimination based on race, color, religion, gender, disability, family status, national origin, or other protected characteristics.



Activities of Government Fair Housing Agencies

- Enforcement of fair housing laws
- Technical assistance
- Education and training



Activities of Private/Nonprofit Fair Housing Agencies

- Inquiries & Referrals
- Education and Outreach
- Testing
- Reasonable Accommodations/Modifications
- Reports & Studies
- Complaint intake, investigation, negotiation, administrative complaints, litigation



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Fair Housing Enforcement The Basics

- Enforcement agencies at all levels – federal, state, county, city
- Enforce both federal and local laws, which are generally equivalent
- Complaints must be filed within one year



Protected Classes

Under the federal Fair Housing Act it is illegal to discriminate in the provision of housing based on:

- RACE
- COLOR
- RELIGION
- NATIONAL ORIGIN
- SEX
- FAMILIAL STATUS
- DISABILITY

(State and local laws include additional protected classes)



Additional Protected Classes

In California:

- Marital Status
- Sexual Orientation & Gender Identity
- Military/Veteran Status
- Use of a service or assistive animal
- Sexual Orientation & Gender Identity



Activities Subject to Fair Housing Laws

- Rental
- Sales
- Lending
- Appraisals
- Insurance
- Advertising
- Coercion, intimidation, threats, interference in the provision of housing



Types of Housing Covered

- Apartments leased or rented
- Condominiums sold, leased or rented
- Houses sold, leased or rented
- Rooming houses
- Shelters, Transitional Housing
- College Residence Halls
- Cooperatives
- Mobile home parks
- Housing construction sites
- Empty lots



Who Must Comply?

- Property owners and managers
- Real estate brokers or agents
- Housing developers and contractors
- Mortgage lenders, financial institutions
- Advertising media
- Homeowner Associations (HOAs)
- Condominium boards
- Public Housing Authorities (PHAs)
- Social Service agencies who provide housing
- Maintenance staff
- Outside contractors (plumbing, landscaping, etc)
- Other residents



Advertising Basics



- Fair housing laws cover all rental or sales advertising.
- The Equal Housing Opportunity logo or slogan conveys an organization's fair housing policy to everyone.



Application & Screening

- Set useful qualification standards and establish a reasonable application and screening process.
- Follow the same process for every applicant – apply selection procedures consistently.
- Avoid off-the-cuff judgment calls and stereotyping of applicants.
- Document the selection process. Keep a clear paper trail to justify rental decisions.



Application & Screening

- Represent availability accurately and inform all applicants about available units.
- Accept applications from all qualified applicants and negotiate, rent or sell to any qualified individual.
- Avoid steering (directing applicants to specific rental units based on their protected class).
- Establish reasonable deposits, fees, and rents and apply them to all applicants, regardless of their protected class.



Race, National Origin and Ancestry Issues

- Application and Screening: Avoid asking questions about citizenship unless there is a business reason to do so
- Rent and Fees: Apply the same charges to all residents
- Maintenance and Repairs: Ensure that your staff treats residents respectfully and provides prompt services to all



Tenancy Policies and Rules

- Set clear policies and rules (consider why each rule is needed)
- Put policies and rules in writing
- Give a copy to all staff and residents
- Apply rules equally



Harassment

- Sexual harassment
 - Quid pro Quo
 - Hostile environment
- Harassment due to protected class, such as race, national origin, disability, or sexual orientation



Domestic Violence & Fair Housing

- 90-95% of the time the victim of domestic violence is a woman
- Neutral “zero tolerance for violence” policies applied equally to all residents can adversely impact female DV victims
- Don’t assume former DV victim will bring trouble to the community



Retaliation

A harmful act or conduct by a housing provider against an applicant or resident because that individual has asserted or assisted someone in asserting fair housing rights.



Families with Children

Familial Status = Parental Status

- The presence of one or more children under the age of 18 in the household
- Parent, step-parent, adoptive parent, guardian foster parent or custodian of a minor child
- Pregnant woman or someone in the process of acquiring legal custody of a child



Families with Children

Housing providers must:

- Rent to families with children
- Integrate families with children throughout the community
- Set rules that don't target children



Occupancy Standards

Housing providers can set reasonable occupancy standards.
HUD Keating memo – FHA presumes “two per bedroom”
occupancy policy is reasonable.

Factors to consider –

- Size of bedrooms and unit
- Configuration of unit
- Age of children
- Physical limitations (septic, sewer, etc.)
- State or local laws



SDHC OCCUPANCY STANDARDS

- Maximum number of residents based on the Housing Quality Standards (HQS)
- Two persons per living/sleeping room
- Level may be exceeded if additional room qualifies as a living/sleeping room, e.g. den, family room



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Fair Housing Disability Laws

- Federal Fair Housing Act
- California Fair Employment and Housing Act
- Section 504, Rehabilitation Act of 1973
- Americans with Disabilities Act (ADA)
- Local fair housing ordinances



Facility Access Requirements

- FHA has accessible design standards for newly constructed, multi-family housing of four or more units, ready for first occupancy on/after March 13, 1991
- Federal or state funded housing may have additional access requirements
- California state building codes include FHA & ADA access standards



Who Has a Disability? Who Doesn't?

Someone is disabled who:

- Has a physical or mental condition that substantially limits a major life activity
- Has a record or history of disability
- Is regarded as having a disability

NOTE: Local fair housing laws have broader definitions.

Various people are NOT disabled; e.g. broken leg, etc.



Don't Ask Disability Questions

- Do you have a disability?
- How severe is your disability?
- Why are you getting SSI?
- Do you take medications?
- Can I see your medical records?
- Ever been in drug or alcohol rehab?
- Are you capable of living independently?
- What does that service animal do?



What's Reasonable?

An accommodation is reasonable if

- It is related to the resident's disability needs and
- Is not an undue burden for the housing provider



When it is Not Reasonable

Accommodation requests can be denied if:

- There is no disability-related need for the accommodation
- The request imposes an undue financial or administrative burden
- The request would fundamentally alter the nature of the housing provider's operations

Best practice – Discuss options; grant reasonable accommodations.



Service Animals = Reasonable Accommodations

Any animal individually trained to do work or perform tasks for the benefit of an individual with a disability

- Certification not necessary
- Resident may provide the training
- “Companion animals” included



Reasonable Accommodations

- Reasonable accommodations are changes in rules, policies, practices and the way services are provided.
- Reasonable accommodations enable a person with a disability to have an equal opportunity to use and enjoy a dwelling unit or any common areas.



Housing for Older Persons Act of 1995 (HOPA)

- Housing specifically designed and operated for older persons
- Housing for people who are all 62 or older
- 55+ housing – 80% occupancy requirement
 - Provider must demonstrate intent to serve 55+ population
 - Verification of occupancy



Accessible Parking = Reasonable Accommodation

- Respond promptly to requests for accessible parking
- Provide a reserved accessible parking space nearest resident's unit (or on accessible route to unit)
- Proper signage is required
- Enforce accessible parking



The Accommodations Process

- Resident must request accommodation
- Consider all accommodation requests
- Engage in an interactive process
- You can require the resident to provide written proof of need for the accommodation
- Grant accommodations on case-by-case basis, depending on the resident's disability needs and circumstances



Reasonable Modifications

Physical changes to a dwelling or common area, necessary for a resident to use and enjoy these spaces.



Reasonable Modification Basics

- Resident must fully describe modification
- Change must be allowed if reasonable
- Modification must be done properly (to code)
- Resident may need to set aside restoration monies
- Resident may have to restore interior changes
- Resident does not have to undo changes that are neutral or that enhance access



Who Pays for Accommodations and Modifications?

Housing provider pays:

- Meeting minimum accessibility standards
- Accommodations (generally no or low cost)
- If federally funded (unless can prove great financial or administrative hardship, which considers the total budget of the complex)

Resident usually pays:

- Modifications to individual unit if no federal funds involved
- Resident may pay money for the cost of restoration into an interest-bearing escrow account



What is Sexual Orientation?

A protected class under state and local fair housing laws – defined as actual or perceived male or female heterosexuality, bisexuality, or homosexuality. (May include gender identity)



What is Gender Identity?

A protected class under state and local fair housing laws – defined as a person's identity, expression, or physical characteristics, whether or not traditionally associated with one's biological sex or one's sex at birth.



Section 8 Voucher Program

People with Housing Choice vouchers and others who participate in the Section 8 program are not considered to be a protected class.

