

DISABILITY RIGHTS & HOUSING

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Fair Housing Laws Protect People with Disabilities

- Disability = a physical or mental impairment or condition that substantially limits a major life activity
- Person with a Disability = someone who:
 - Currently has a disability;
 - Has a record of having a disability; or
 - Is regarded as having a disability.

Some Examples of Disabilities

- Visual Disabilities
- Auditory Disabilities
- Mobility Disabilities
- AIDS & HIV, Diabetes, Cancer, Stroke, Arthritis, Chemical Sensitivities
- I/DD
- Past Substance Abuse/Addiction
- Mental Health Disabilities

Who Must Comply with Fair Housing Laws?

- Landlords, housing authorities, group homes, property managers, homeowners' and condo owners' associations must comply with fair housing laws.
 - Single-family homes are sometimes exempt from federal fair housing law. State fair housing laws still apply.
- Fair housing laws can cover conduct by other tenants or neighbors

What is Disability-Based Discrimination?

- Unequal Treatment;
- Denial of Housing Opportunities;
- Denial of Equal Access to Common Areas;
- Discriminatory Advertising or Other Statements;
- Retaliation; Harassment
- Failure to Provide Reasonable Accommodation



Prohibited Practices: Examples

- Denying programs or services or benefits based on disability
- Providing only separate, or segregated, programs or services
- Using eligibility criteria that tend to screen out people with disabilities
- Making unnecessary inquiries about disability
- Imposing extra charges
- Retaliating for exercising fair housing rights

Laws Protect Anyone Harmed by Discrimination

- Federal and state fair housing laws protect people with disabilities who are harmed because of discrimination
- These laws also protect others who are harmed because of illegal discrimination:
 - Family members
 - Friends
 - Others who try to assist people experiencing discrimination

Reasonable Accommodations

Landlords have an *affirmative legal duty* to be flexible in their rules, policies, practices & procedures when necessary to provide equal access to housing for persons with disabilities.

Reasonable
Accommodation
Rules, Policies,
Practices and
Procedures -
Examples

- Permitting co-signing of lease for rent
- Adjusting rental due date based on receipt of benefits
- Other flexibility in rules and procedures
- Live-in aides
- Delaying or foregoing a tenancy termination

Reasonable Modifications

- Modification is a physical change. Doesn't include repairs.
- Must be granted if the modifications are necessary to allow the person full enjoyment of the premises
- **Who Pays?**
 - Often the person with a disability,
 - But in **federally funded housing, landlord pays**

Requesting an Accommodation

- No particular form required.
- Writing is preferable, but oral requests are OK.
- Request should explain that there is a **disability-related** need.

Q: WHEN MAY I MAKE A REQUEST?

A: Legally, any time:

- Application
- Payment
- During Tenancy
- Moving Out
- But, practically, timing can matter

Landlord's Response

- If it's reasonable, must grant it.
- No delay, retaliation or interference
- If the disability is not apparent, the landlord may ask for verification
- Interactive Process

Landlord May NOT

- Increase the security deposit.
- Give a blanket denial
- Refuse housing to a person with a disability because they may need a reasonable accommodation.
- Charge money for the policy change.

Interactive Process

- A landlord *must* provide a requested accommodation *unless* the landlord can show that doing so will:
 - Impose an “undue burden” or
 - Result in a “fundamental alteration” in the service provided by the landlord.
 - BUT accommodations *can* impose costs on landlords.

“VERIFYING” DISABILITY

- If the disability or need for accommodation is obvious or known to the landlord, the landlord may not ask for further information
- If the disability or need is not obvious, the landlord may ask for additional information to:
 - Confirm the existence of a disability
 - Confirm the connection between the disability and the accommodation requested.
- **A limited exception to general rule against inquiring about disability**

FROM THE LANDLORD'S MOUTH

Real-world Scenarios

From the Landlord's Mouth

- “We won’t consider your reasonable accommodation request unless you fill out our form.”

From the Landlord's Mouth

- “In order to grant your request I’ll need you to sign this release so that I can contact your doctor directly to verify your disability.”

From the Landlord's Mouth

- “You can move from your studio on the 5th floor to a studio on the 1st floor to accommodate your disability, but you have to pay the difference in rent/deposit.”

ANIMALS IN HOUSING



TERMS TO (UN)CONFUSE FOLKS



- Service Animals: Specifically trained to perform a task
- Emotional Support Animals: Ameliorate by their very presence
- Therapy Animals: Health care milieu
- Comfort Animals: Not a Thing
- Assistance Animals: HUD's term



Emotional Support Animals

- Support animals ameliorate psychiatric disabilities
- Not limited to dogs
- No task training required

Federal and State Fair Housing Laws Cover Assistance Animals

- Both federal and states laws protect the right of people with disabilities to keep assistance animals, even when a landlord's policy explicitly prohibits pets.
- Landlord generally required to make an exception to its "no pet" policy so that a tenant with a disability can fully use and enjoy his or her dwelling.
- Federal interpretations and state regulations

From the Landlord's Mouth

- “You didn’t tell me you needed/had an emotional support animal when you moved in and so you can’t have one now.”

- Reasonable accommodation requests can be made at any time.
- HOA discriminated against tenants by denying their reasonable accommodation for an emotional support animal, despite making that request after the animal had already been acquired.

From the Landlord's Mouth

- “I’ll approve an emotional support animal but absolutely **NO** pitbulls.”

Breed, size, and weight limitations may not be applied to an assistance animal. A determination that an assistance animal poses a direct threat of harm has to be based on the specific animal's conduct and not **speculation** based on harm by other similar animals.

From the Landlord's Mouth

- “If you are going to bring in an emotional support animal then you have to pay an additional deposit or pet rent.”

- Landlords may not require persons with disabilities to pay extra fees or deposits as a condition of receiving a reasonable accommodation.

From the Landlord's Mouth

- “I’ll approve your reasonable accommodation request but first I need to see their service animal certification.”

**No law requires an assistance
animal to be “certified.”**

(For good reasons.)

Enforcing Fair Housing Laws

- File an administrative complaint
 - with California Civil Rights Department f/k/a DFEH
 - with U.S. Department of Housing and Urban Development or “HUD”
- File a lawsuit
 - in California Superior Court
 - in federal District Court

For Assistance

- Usually, the best first step if you suspect or experience housing discrimination is to contact

Project Sentinel

www.housing.org

(800) 339-6043



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