




SANTA CLARA COUNTY
HOMELESSNESS CONTINUUM OF CARE

FAIR HOUSING AND TENANTS' RIGHTS
TRAINING SERIES

PART 2:
FAIR HOUSING TRAINING

Presented by Bay Area Legal Aid

October 21, 2021



Agenda

- A. Overview of Bay Area Legal Aid
 - i. Our Services
 - ii. Client Eligibility
 - iii. Ways to Access our Services
- B. Fair Housing Overview
 - i. Fair Housing Laws
 - ii. Protected Classes
 - iii. Prohibited Conduct
 - iv. Reasonable Accommodations
 - v. Source of Income Discrimination
 - vi. Protections for Immigrant Tenants

Who We Are: Bay Area Legal Aid provides free legal services to eligible low-income residents in the Bay Area.

Practice Areas in Santa Clara County include:

<p>Housing Preservation And Homelessness Prevention</p> <ul style="list-style-type: none">• Landlord-tenant Matters• Eviction Defense• Fair Housing• Subsidized Housing Issues	<p>Domestic Violence And Sexual Assault Prevention</p> <ul style="list-style-type: none">• Restraining Orders• Family Law• Domestic Violence Related Immigration
<p>Immigration</p> <ul style="list-style-type: none">• Services for Immigrant Survivors of Domestic Violence and Sexual Assault	<p>Economic Justice</p> <ul style="list-style-type: none">• Public Safety Net Programs
<p>Health Consumer Center</p> <ul style="list-style-type: none">• Health Care Access• Public Health Insurance Programs• Health Consumer Issues	<p>Consumer Law</p> <ul style="list-style-type: none">• Debtor’s Rights• Fair Credit Reporting
	<p>Youth Justice Project</p>

Ways to Access Our Services

LEGAL ADVICE LINE (ALL PRACTICE AREAS)

1-800-551-5554

Monday - Thursday 9:30AM - 1PM

HEALTH CONSUMER CENTER

1-855-693-7285

Monday – Friday 9AM – 5PM

Fair Housing Laws

Fair Housing Laws

■ Federal Law

- *Fair Housing Act (FHA)*
- *Fair Housing Amendments Act (FHAA)*
- *Section 504 of the Rehabilitation Act*
- *Americans With Disabilities Act (ADA)*

■ State Law

- *Fair Employment and Housing Act (FEHA)*
- *The Unruh Civil Rights Act*

- **Purpose of fair housing laws:** to prevent discrimination in housing by making it illegal to disadvantage someone in renting, buying, or occupying a home because of that person's membership in a protected class.

Protected Classes

■ Federal Law:

- Race
- Color
- Religion
- Sex
- Familial Status,
- National Origin
- Physical/Mental Disability

■ California Law includes all protected classes under federal law, plus:

- Marital Status
- Ancestry
- Sexual Orientation/Gender Expression/Identity
- Source of Income
- Medical Condition /Genetic Information
- Military/Veteran Status

Prohibited Conduct

Intentional Discrimination

Treating a member of a protected class, or a person associated with them, differently.

Disparate Impact

Conduct that is neutral on its face but results in a discriminatory impact on a protected class.

Sexual harassment

Hostile environment

Quid pro quo

Discrimination against domestic violence survivors

Reasonable Accommodations

Reasonable Accommodations

What is a Reasonable Accommodation?

A change in a rule, policy, practice, or service that is necessary to allow a person with a disability the equal opportunity to use and enjoy a dwelling.

What Constitutes a Disability under Fair Housing Laws?

- Mental or physical impairment that substantially* limits one or more life activities; and/or
- A history of such impairment; and/or
- Regarded as having such impairment.

*California law does not require a “substantial” limitation.

Reasonable Accommodation Denials

A reasonable accommodation may be denied if:

- A person is not “disabled” under fair housing laws
- There is no nexus between the disability and the requested accommodation
- The request is not reasonable
 - *The reasonable accommodation would result in an undue administrative burden or financial burden*
 - *The reasonable accommodation would fundamentally alter the nature of the provider’s operations*

How to Request a Reasonable Accommodation

A reasonable accommodation may be requested verbally or in writing (preferably)

A reasonable accommodation must have a “nexus” to the disability requested. This means that the accommodation requested must be connected to the disability and be necessary for the person with a disability to use and enjoy their housing.

Best Practices:

a) Make request in writing

b) Attach verification from a knowledgeable professional

- 1. Impairment that substantially limits or limits major life activity*
- 2. The need for the accommodation requested*

Housing Provider Obligations

After a tenant requests a reasonable accommodation, a housing provider must engage in the interactive process if they believe they cannot grant the request.

The interactive process is where the housing provider and the tenant discuss the tenant's disability-related need for the requested accommodation and possible alternative accommodations.

A Housing Provider Should:

- Provide prompt responses to reasonable accommodation requests
 - *An undue delay may be deemed to be a failure to provide a reasonable accommodation request*
- Engage in the Interactive Process
 - *Failure to engage in the interactive process could be deemed as a denial and can be considered discrimination based on disability.*

Reasonable Accommodation Examples

Parking Space

- A housing provider has unassigned parking spaces for residents on a first come first serve basis. A tenant has a mobility impairment and is substantially limited in her ability to walk. She requests an assigned parking space close to the entrance of her unit. The housing provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.



“No pets” policy

- A housing provider has a no pets policy. A tenant with a hearing impairment requests that he be allowed to keep a dog as a reasonable accommodation. The dog is an assistance animal that alerts the tenant to sounds, including knocks on the door, and the sounding of smoke detectors. The housing provider must make an exception to its “no pets” policy.
- A tenant suffers from depression, and uses an emotional support animal to cope with symptoms of depression. The housing provider must make an exception to its “no pets” policy.

Source of Income Discrimination

Source of Income Discrimination

- All landlords in California cannot refuse to accept Section 8 or HUD-VASH vouchers. Landlord are required to consider Section 8 and HUD VASH vouchers and other forms of rental assistance and to consider them as part of an applicant's income.
- Source of income is now defined as:
- “lawful, verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issues under Section 8 of the United States Housing Act of 1937 (42 USC Sec 1437f).
- “Source of income” also includes HUD-VASH.

Protections for Immigrant Tenants

Immigrant Tenant Protection Act

- Landlords are prohibited from
 - *Asking a tenant about their immigration or citizenship status (unless to comply with federal government program, or other legal obligation)*
 - *Requiring a tenant or prospective tenant to make a statement, representation, or certification about their immigration or citizenship status*
 - *Disclosing any information relating to the immigration or citizenship status for purposes of*
 - Harassment
 - Intimidation
 - Retaliation
 - Influencing a tenant to vacate
 - Recovering possession of the dwelling

Immigrant Tenant Protection Act

- Landlords are prohibited from evicting tenants based on their immigration status
- If a landlord tries to evict a tenant based on immigration status, a tenant may use that as a defense to an unlawful detainer action
- It is considered a rebuttable presumption that a tenant or occupant has established an affirmative defense if the landlord did both of the following
 - *Approved the tenant to take possession before filing the unlawful detainer*
 - *Included in the unlawful detainer a claim based on one of the following:*
 - The failure of the previously approved tenant to provide a valid social security number
 - The failure of a previously approved tenant to provide information required to obtain a consumer credit report
 - The failure at any time of the previously approved tenant to provide a form of identification deemed acceptable by the landlord

Thank You

Questions?