



# FAIR HOUSING UPDATE FOR 2021

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# PROJECT SENTINEL

## *Our Mission Statement:*

To develop and promote fairness and equality of housing opportunity for all and to advocate peaceful resolution of disputes for community welfare and harmony.

Fair Housing Center offices in Fremont, Gilroy, Modesto,  
Redwood City, Sacramento, and Santa Clara

[www.housing.org](http://www.housing.org)

# WHAT IS FAIR HOUSING?

- The ability of people to have available to them the same housing choices, regardless of personal characteristics such as race or national origin.

# MOST COMMON TYPES OF DISCRIMINATION

- **2019 Statistics from the U.S. Department of Housing & Urban Development (HUD):**
  - **49% Disability**
  - **21% Race**
  - **11% Sex**
  - **9% Familial Status**
  - **9% National Origin**

# MOST COMMON TYPES OF DISCRIMINATION

- **Statistics from Project Sentinel  
7/1/2019 – 7/1/2020:**
  - **69% Disability**
  - **15% Familial Status**
  - **8% Race**
  - **9% National Origin**
  - **6% Sex**



# PROTECTED CLASSES

## Federal Fair Housing Act Protected Classes:

Race

Color

Religion

National Origin

Sex

Familial Status

Disability

## California Fair Employment & Housing Act Adds:

Marital Status

Sexual Orientation

Ancestry

Source of Income

Gender Identity/Expression

## Unruh Act Adds:

Immigration Status, Primary Language, Citizenship, Arbitrary Characteristics (Age, Occupation, Etc.)

# TYPES OF HOUSING COVERED

- Dwelling unit: *occupied or designed as a residence. See 42 U.S.C. § 3607(b)(1).*
- Most single-family homes and multi-family apartments
- Mobile home parks and RV parks
- Condominiums, timeshares, co-ops
- Nursing homes, shelters, group homes, residential care facilities



# RESPONSIBLE PARTIES

- Property owners (individual & corporate)
- Property managers
- Maintenance & administrative staff
- Real estate agents & brokers
- Lenders
- Insurers & appraisers
- Homeowner/condominium associations
- Property management companies
- Architects, builders, developers, and engineers
- Municipalities



# RECENT CHANGES



## New in CA as of 2020:

- Source of income now includes Section 8 + more
- Veteran & Military status

## New for federal law:

- Sex discrimination will now include protections for gender identity and sexual orientation



# A FEW NOTES ON SEX DISCRIMINATION

- Sex discrimination includes two special subtopics:
- Sexual Harassment:
  - Quid pro quo
  - Hostile environment
  - Landlord is responsible for the conduct of managers, maintenance, leasing office, etc. & can be held liable for a neighbor's behavior if they are notified and take no action.
- Domestic Violence
  - Illegal to refuse to rent, evict or harass a person due to domestic violence
  - Early lease break with 14 day notice
  - Lock changes
  - Cannot evict tenants for repeated calls to emergency services

# SOURCE OF INCOME

- Landlords cannot refuse to rent or impose different terms as long as income is legal and verifiable.
- This may include: child/spousal support, foster care support, savings, pensions, etc.
- Benefits count too: Social Security, State disability, VA benefits, General Assistance, CalWORKS, etc.
- A housing provider can't prefer certain types of or tenures at jobs.
- Amount of income is not the same as source of income.
- Can verify employment, ask for documentation, and have minimum income requirements.

# SECTION 8 & OTHER HOUSING VOUCHERS

- Now source of income includes: Section 8 Housing Vouchers and other housing assistance programs.
- No longer legal to advertise “No Section 8.”
- Landlords should accept third-party payments if third-party provides statement that they are not a tenant and are not creating a tenancy – Cal. Civ. Code 1947.3

# INCOME STANDARDS

- For tenants with housing choice vouchers, minimum income requirements must be based on portion of rent paid by tenant
- Example: Apartment rents for \$1,900. Landlord requires that tenants earn 3x monthly rent (\$5,700). Tenant receives Section 8 voucher, pays only \$250; Housing Authority pays the other \$1,650. Landlord can only require that tenant earn 3x *tenant's portion* of rent, or \$750

See Cal. Gov. Code § 12955(o)

# FAMILIAL STATUS DISCRIMINATION

- It is illegal to discriminate against a household because of the presence of a minor under 18.
- This applies to pregnant tenants, adopted and foster children, and anyone who has guardianship of a child.
- Advertising for “adults only” or “no kids” is illegal.
- Discouraging a family from renting a unit because of safety, or because there are no other children in the community, or because it’s a “quiet community of professionals” are all examples of discrimination.
- Steering to bottom floor or housing families only in certain areas of the complex is prohibited.

# DISCRIMINATORY POLICIES & FAMILIES

- Occupancy limits that are below the “2+1” guideline keep families with children unhoused.
  - Minimum occupancy limit should be 2 people per bedroom + 1 person in the unit.
    - 1BR = 3 people; 2BR = 5 people; 3BR = 7 people
- Rules targeted towards children
  - “No playing in common areas.”
  - “Children must be supervised by an adult at all times.”

# IMMIGRATION STATUS

- In California, landlords or property managers in privately-owned market housing **cannot** ask about an applicant or tenant's immigration status.
- A housing provider can't require Social Security Numbers from an applicant.
  - Applicants can use ITINs or provide other information for credit checks
- Housing providers must accept non-USA identification, such as consular cards, passports etc.
- It is explicitly illegal under state law for a property manager or owner to threaten to call immigration authorities based on a perception of a tenant's status.



# AFFORDABLE HOUSING & IMMIGRATION STATUS

- **Some** federally funded programs can inquire as to immigration status to determine subsidy eligibility.
- Mixed status families can live in federally subsidized housing as long as one household member qualifies for the subsidy.
  - Rent will be prorated based on number of household members who are eligible.
- However, **100% tax credit properties** have no immigration restrictions.

# RESOURCES

- Project Sentinel: [www.housing.org](http://www.housing.org)
- U.S. Department of Housing and Urban Development (HUD):  
[www.hud.gov](http://www.hud.gov)
- California Department of Fair Employment and Housing (DFEH): [www.dfeh.ca.gov](http://www.dfeh.ca.gov)
- Fair Housing Act:  
[www.justice.gov/usao/eousa/foia\\_reading\\_room/usam/title8/title8.htm](http://www.justice.gov/usao/eousa/foia_reading_room/usam/title8/title8.htm)
- Code of Federal Regulations, 24 C.F.R. 100 et seq, Discriminatory Conduct Under the Fair Housing Act
- Reasonable Accommodations Under the FHA, Joint Memo by HUD and DOJ:  
[www.hud.gov/offices/fheo/library/huddojstatement.pdf](http://www.hud.gov/offices/fheo/library/huddojstatement.pdf)

# THANK YOU

Project Sentinel

Contact us at:

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