

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

Using Reasonable Accommodations to Protect the Rights of Tenants Living with Disabilities: List of Resources

Sources of Law

1. California Fair Employment and Housing Act of 1959, codified at [Government Code §§12900 - 12996](#), with the housing discrimination provisions in Chapter 6, Article 2, §§ [12955 – 12956.2](#). (Added by Stats. 1980, Ch. 992).

- Definition of Disability for purposes of FEHA: Govt. Code § 12926 (j) mental disability; and (m) physical disability.
- CA Civil Rights Department (CRD) (formerly Dept. of Employment & Fair Housing or DEFH) Fair Housing Regulations: <https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2019/09/FinalText-FairHousingRegulations.pdf>.

1) 2 CCR 12005 (n) “Discriminatory housing practice” means an act that is unlawful under federal or state fair housing law, including housing-related violations of the Fair Employment and Housing Act, the federal Fair Housing Act, the Unruh Civil Rights Act, the Ralph Civil Rights Act, the Disabled Persons Act, and the Americans with Disabilities Act.

2) 2 CCR 12176: Reasonable Accommodations and Reasonable Modifications

2. **Federal Fair Housing Amendments Act of 1988** (P.L. 100-430) and its implementing regulations, 24 C.F.R. 100.1 et seq..

- [Code of Federal Regulations \(govinfo.gov\)](#) (PART 100—DISCRIMINATORY CONDUCT UNDER THE FAIR HOUSING ACT)

3. **Section 504 of the 1973 Rehabilitation Act**

<https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973>

4. **Americans with Disabilities Act, Title II**

https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm

- Section 504 and ADA Title II can be considered together. Section 504 applies to recipients of federal assistance in the operation of their programs and activities (e.g. private landlords that receive federal funding; public housing authorities).
- Title II of the ADA applies to housing that is operated by a governmental entity, including states, cities, or counties.

Washington, DC



Los Angeles, CA



Oakland, CA

- Under Section 504 and ADA Title II, both reasonable accommodations and reasonable modifications are evaluated under the same standard: if a person with a disability needs either an adjustment to policies/rules/services, or a structural modification, the housing provider must provide and pay for it unless it would be an undue burden.

Agencies Involved in Oversight

CA Civil Rights Department (CCR, formerly DEFH) – Equal Housing opportunities for people with disabilities: <https://www.dfeh.ca.gov/peoplewithdisabilities/#equalHousingBody>

- People with disabilities are protected when they seek housing. State law prohibits discrimination by sellers, landlords and those who provide housing-related services.
- Housing policies, practices, terms and conditions must allow people with disabilities equal access to apartments, houses, condos and other dwellings.
- Where necessary, reasonable accommodations in housing rules, policies, practices, or services are required to allow people with disabilities equal opportunity to use and enjoy dwellings.

DFEH Complaint Process and Forms:

<https://www.dfeh.ca.gov/ComplaintProcess/#fileComplaintBody>.

U.S. Department of Housing and Urban Development, Office of Fair Housing & Equal Opportunity (FHEO) - Oversees federally funded housing and any housing receiving federal financial assistance.

- HUD Fair Housing Website: Right to [Reasonable Accommodations and Modifications](#) under Federal Law
- [File a Complaint with HUD](#); assistance for Persons with Disabilities: TTY line: 1-800-877-8339. You can also ask for disability-related assistance when you contact FHEO, including reasonable accommodations and auxiliary aids and services.
- [Joint Statement of HUD and DOJ on Reasonable Accommodations](#)
- [Joint Statement of HUD and DOJ on Reasonable Modifications](#)
- <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf> (HUD Guidance on Assistance Animals)
- [E8-25474.pdf \(govinfo.gov\)](#) (Pet Ownership for the Elderly and Persons With Disabilities; Final Rule)

- HUD Fair Housing Guide *for Individuals* with Mental Health, Intellectual, or Developmental Disabilities: [MD Fact Sheet - Individuals.pdf \(hud.gov\)](#)
- HUD Fair Housing Guide *for Housing Providers* of Individuals w/Mental Health or Intellectual/Developmental Disabilities) [MD Fact Sheet - HP.pdf \(hud.gov\)](#)
- HUD Notice of Final Regs. on Nondiscrimination on Basis of Disability in Federally Assisted Housing & Activities: [2014-11844.pdf \(govinfo.gov\)](#)
- [JOINTSTATEMENT.PDF \(hud.gov\)](#) (ACCESSIBILITY (DESIGN AND CONSTRUCTION) REQUIREMENTS FOR COVERED MULTIFAMILY DWELLINGS UNDER THE FAIR HOUSING ACT)

CA Fact Sheets and Client Resources

- [Your Right to Reasonable Housing Accommodations | Disability Rights California](#)
- [Rights to Service and Emotional Support Animals in Housing and Public Places – FAQs | Disability Rights California](#)
- [Fact Sheet: Disability-Based Housing Discrimination | Disability Rights California](#)
- [Emotional Support and Service Animals in Public Housing | Disability Rights California](#)
- [Fact Sheet: Rights to Assistance Animals in Housing | Disability Rights California](#)
- [NLSLA: Reasonable Accommodations & Reasonable Modifications](#)
- [Emotional Support Animals and Fair Housing Law \(ca.gov\)](#)
- CCR FAQ: [Emotional Support Animals and the Fair Housing Law](#). Available in English, Spanish, Tagalog, Chinese, Korean and Vietnamese, at: <https://www.dfeh.ca.gov/Posters/>
- [Disability Discrimination Fact Sheet \(EN\) \(ca.gov\)](#)
- [Fair Housing Fact Sheet ENG.pdf \(ca.gov\)](#)

Selected CA Cases

Giebeler v. M & B Associates, 343 F. 3d 1143 (9th Cir., 2003). Fair Housing Amendments Act (FHAA) required a landlord to accommodate tenant's disability, and disability-related insufficient income, by waiving its prohibition of having co-signers to the lease.

U.S. v. Cal. Mobile Home Park Mgmt. Co., 29 F.3d 1413 (9th Cir., 1994). Appeals Court overturned District Court motion to dismiss where disabled person requested, as a reasonable accommodation, that landlord waive daily fee for long-term guests applied to her home medical aide. Landlord has affirmative obligation to waive fees that have effect of excluding disabled person from full use/enjoyment of a dwelling, and which does not impose an undue burden on the landlord. Court rejected claim that this created preferential treatment for PWD.

[*Reilly v. Marin Housing Authority*](#), 10 Cal.5th 583 (2020). Income of a family member who is an IHSS caregiver for a household member with a developmental disability should not be counted for the purposes of the Section 8 voucher program.

[*Huynh et al. v. Harasz*](#), Case No. 14-CV-02367-LHK, (N.D. Cal. May. 12, 2016)– Santa Clara Housing Authority's blanket policy of denying all reasonable accommodation requests for greater number of bedrooms to accommodate disabled tenants' disabilities, except where an additional bedroom is needed for a live-in aide or where medical equipment [is] involved violates various state and federal disability discrimination prohibitions.

HUD Settlement Agreements, Charges, & Conciliation Agreements:

[Larpenteur Estates Apts. LLC et al. 05-21-2884-8 Charge of Discrimination \(003\) \(hud.gov\)](#): Refusal to allow an emotional support animal constitutes unlawful discrimination in violation of the FHA, resulting in civil penalties and compensatory damages.

[HUDOHA 21-JM-0202-FH-025 Settlement Agreement \(FULLY EXECUTED\)](#). Refusal to allow family members in excess of unit standard capacity to allow for disabled resident's care needs constitutes unlawful discrimination.

[ALJ Long Island 70000 \(hud.gov\)](#) Refusal to rent to mother and wheelchair using daughter constitutes unlawful discrimination. Damages of \$100,000+ for lost housing opportunity, lost income, out-of-pocket expenses, and emotional distress. Decision contains good analysis of how damages are calculated.

Sample Forms/Pleadings and Advocate Guides

- [DOC 7398.DOC \(live.com\)](#) (Sample RA Request Letter)
- [Sample RA Letter for More Time to Comply with Notice to Cure or Quit](#)
- [Sample RA Letter for Emotional Support Animal](#)
- [Hoarding Cheat Sheet for Advocates](#) (checklist for handling hoarding cases)
- [Tenant Power Toolkit](#)
 - The *Tenant Power Toolkit* allows tenants across California to prepare (and in Los Angeles County, electronically file, if the tenant qualifies for a fee waiver) an Answer to a Summons and Complaint for an eviction. **Answer 3(u)** on the UD-105 Answer form allows a tenant to claim a defense based on the housing provider's failure to provide a reasonable accommodation.

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Last Revised Sept. 15, 2022