

FAIR HOUSING FOR PEOPLE WITH DISABILITIES

A Consumer Guide To The Fair Housing Amendments Act



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THE FAIR HOUSING ACT

The Fair Housing Act says that

- **When You Rent, or Buy or Sell**

- an apartment
 - a house
 - a condominium
 - a mobile home
 - or a co-op

- **You cannot be discriminated against because of**

- Race, Color or National Origin,
 - Sex, Religion,
 - Family Status (Children)**
 - "Handicap"*** or Disability*

- **By owners, lenders, sellers, agents:**

- landlords, management companies,
 - rental agents, real estate agents, or
 - banks, building managers.

* Handicap is the word used in the law when it was changed in 1988. We will use "disability" or "person with a disability".

** As of March 13, 1989 under the Fair Housing Act.

ARE YOU A PERSON WITH A DISABILITY?

A person with a disability

has a physical or mental impairment such as those related to:

hearing	multiple chemical sensitivity
vision	chronic fatigue
mobility	head injury
HIV infection	learning disability
mental retardation	psychiatric disability
alcoholism	drug addiction
or other conditions	

that substantially limits one or more major life activities such as:

walking	seeing	learning
hearing	breathing	speaking

or has a record of such an impairment

or is treated as having such an impairment.

IS THERE ANY PERSON WITH A DISABILITY WHO IS NOT COVERED BY THIS ACT?

- Yes! Someone who currently is illegally using drugs is not covered.
- But someone who is in, or has successfully completed a drug-addiction recovery program is covered.

IS ALL HOUSING COVERED BY THIS ACT?

The Fair Housing Act covers **most housing**.

In some circumstances it does not cover:

- housing in a building with four or less apartments when the landlord lives in that building,
- housing rented or sold by the owner without advertising or use of a real estate or broker.

WHAT ARE EXAMPLES OF PROHIBITED DISCRIMINATION?

- **Refusal to rent or deal with someone because of a disability**

"I don't want someone with a mental disability to live in my building."

"We do not allow pets. I don't care if it is a service dog."

"I cannot rent to you. I am afraid of future liability, if you get sick."

"We do not rent to people on SSI or other disability benefits."

- **Special rules, deposits or rental charges**

"You can only live here if there is someone to take care of you."

"People who use wheelchairs damage the apartment. You must leave double the usual security deposit."

"Before I give you apartment listings, I need a letter from your doctor or therapist saying that you can live on your own."

- **A false statement (because of disability) that housing is not available, saying "It is rented" when it is not.**

Refusal of a reasonable accommodation in practices, policies or services, such as refusal to:

Post a no-smoking sign in the lobby (because of chemical sensitivity or asthma).

Provide an available reserved parking space closest to an apartment (because of a mobility impairment).

Read the rental application (because of a learning disability).

- **Refusing to let you make a reasonable modification at your expense to your apartment or common areas such as a lobby:**

Not allowing grab bars in the bathroom.

Not allowing you to take out carpeting because of sensitivity to fibers or adhesive.

Not allowing you to ramp the one step up into the lobby.

- **Advertising which limits housing for someone with a disability.**
- **Restricting choice to a neighborhood or a particular floor of a building.**
- **Intimidation or retaliation against someone for filing a complaint.**

QUESTIONS A LANDLORD MAY NOT ASK

"Do you have a disability?"

"Tell me about your disability. How severe is it?"

"May I have permission to see your medical records?"

"Do you have someone who can vouch for your safety?"

"Why do you receive disability benefits?"

"Have you ever been in a drug treatment program?"

QUESTIONS A LANDLORD MAY ASK

AS LONG AS ALL APPLICANTS OR TENANTS ARE ASKED.

If the housing is set aside for someone with a disability, it is legal to ask if you qualify.

"Are you illegally using drugs?"

"Have you been convicted of the illegal manufacture or distribution of a controlled substance?"

"Would your tenancy be a threat to the health and safety of other people?"

*"Would your tenancy result in **substantial** property damage? (not normal wear and tear.)"*

You may be asked about your ability to meet tenancy requirements:

pay the rent (with proof of some kind),

obey building rules about things such as pets or smoking,

provide references about your past history as a tenant.

YOU CAN BE REJECTED AS A TENANT OR EVICTED FROM YOUR HOUSING

If you cannot, or do not, pay your rent and obey all reasonable rules, or

If there is **recent evidence** of dangerous or abusive behavior **which shows that your tenancy would put others at direct risk of harm AND** that there is **no reasonable accommodation that would remove the risk** (for example, allowing for new medication to take effect or time for you to find someone to assist in changing your behavior).

REASONABLE ACCOMMODATIONS

- **Reasonable Accommodations** are changes in rules, policies, or services so that a person with a disability may have an equal opportunity to use and enjoy the housing.
- **The change must be practical and doable.**
- **YOU must ask for it.**
- **The landlord or manager cannot refuse because,**
"It's always been done this way."

But the landlord may ask for proof of the need for the accommodation.

EXAMPLES OF REASONABLE ACCOMMODATIONS

- Changing a "no pets" rule to allow a companion dog for someone with a psychiatric disability.
- Keeping a laundry room door closed so that fumes do not make someone who is chemically sensitive ill.
- Providing notices to tenants in large print.
- A monthly reminder on "rent day" for someone whose head injury causes memory lapses.
- Allowing a reasonable extension on rent due for someone with sickle cell anemia who has been hospitalized.
- Using alternative pest control methods or lobby cleaners when a tenant has severe allergic responses to pesticides or cleaners being used.

BUILDING OR APARTMENT MODIFICATIONS

- **You have the right to make reasonable modifications to your housing or common areas such as: lobbies, main entrance, or laundry room,**

at your expense* - if they are necessary for full use of your housing.

- **The landlord has the right:**

to condition permission for the modification based on assurance that work will be done properly,

to ask you to obtain any necessary building permits,

to ask you to agree to restore your unit, but not common use areas, after you leave unless it is not reasonable to do so (as in narrowing a doorway you have widened), and

to ask you to set aside a reasonable amount of money over a reasonable time in an interest bearing escrow account to pay for restoration.

*In housing covered by Section 504 of the 1973 Rehabilitation Act it is the owner's responsibility to pay for reasonable modifications.

EXAMPLES OF MODIFICATIONS

- Lowering cabinets to a height usable by someone in a wheelchair.
- Disconnecting a gas oven and installing an electric range, when a person is allergic to gas fumes.
- Installing grab bars in the bathroom, when someone has limited mobility.
- Changing the door handles (to levered handles) and lessening the opening pressure on the building's main entrance door, when arthritis would make it otherwise difficult to open the door.
- Lowering light switches and thermostats so that a person using a wheelchair may reach them.
- Installing automatic shut-off systems on water faucets or oven ranges, when someone with a head injury may forget to turn them off.

ACCESSIBILITY IN NEW BUILDINGS

Multi-family buildings

of four or more units

first occupied after March 13, 1991

must meet certain new construction requirements

and include certain new accessibility features

in all units in buildings with elevators

and only in ground floor units made accessible in buildings with four or more units and no elevators.

HUD published the Fair Housing Accessibility Guidelines on March 6, 1991 as minimum accessibility standards, to be used by builders when constructing new multi-family dwellings.

ACCESSIBILITY FEATURES

- At least one accessible building entrance on an accessible route (unless terrain or site characteristics make this impractical).
- Accessible public and common areas.
- Doors and hallways wide enough for persons in wheelchairs.
- Within each covered unit:
 - an accessible route into and through the unit,
 - accessible light switches, electrical outlets and thermostats,
 - reinforced bathroom walls to allow later installation of grab bars, and
 - kitchens and bathrooms usable by people in wheelchairs.

These requirements do not replace stricter standards in state or local laws.

WHAT DO YOU DO IF YOU THINK YOU HAVE BEEN DISCRIMINATED AGAINST?

- Negotiate, informally, with the landlord or manager.
- File a **complaint** with HUD within **one year** from the date of the discrimination.

You may also:

- File a **private lawsuit** in state or federal court within **two years**.

(If there is a state or local Fair Housing agency with the same powers as HUD, HUD may refer your complaint to that agency.)

- Send a letter or use HUD Form 903, stating:

Your name and address.

The name and address of the person or organization you are filing a complaint against.

The type of housing involved and the address.

A short description of what happened:

- who did or said what on which date(s)
- why you believe your rights were violated

- Include any forms, leases, or brochures related to your complaint.

WHERE TO GO FOR HELP?

- HUD Regional Offices (listed on back of Form 903)
- HUD toll-free complaint hotline:
1-800-669-9777
1-800-927-9275 TDD
- HUD also provides:
Interpreters,
Tapes and Brailled Material,
Help in reading and filing forms.

FOR HELP IN THE CITY/COUNTY OF SAN FRANCISCO CONTACT:

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WHAT HAPPENS AFTER YOU FILE A COMPLAINT?

- HUD notifies you in writing when it received your complaint and if it has jurisdiction to investigate.
- HUD notifies the person you filed the complaint against and gives her/him a chance to answer the allegation.
- HUD investigates your complaint and decides if there is "reasonable cause" to believe the law has been violated.
- HUD tries to **conciliate or reach an agreement** between both sides in the complaint:

If an agreement is signed, HUD takes no further action.

If an agreement is broken, HUD may ask the Attorney General to file suit.

- HUD notifies you in writing if it cannot finish its investigation within 100 days of receiving your complaint.
- If HUD refers your complaint to a state or local agency, that agency must begin work within 30 days or HUD may take it back and do the investigation.

WHAT HAPPENS NEXT?

If HUD finds "reasonable cause" to believe the Fair Housing Act has been violated **AND** no conciliation agreement is reached:

- Your case will be heard in an **Administrative Hearing** by an Administrative Law Judge (ALJ) **within 120 days** at no cost to you.
- The ALJ makes a **decision within 60 days after the hearing.**

OR either side may go to **Federal District Court** and the **Justice Department must begin a lawsuit on your behalf within 30 days**, at no cost to you.

- **A decision of an ALJ can be reviewed in a Federal Court of Appeals.**

- A hearing or a lawsuit **results in:**

a finding that your complaint is or is not valid. If it is valid, it may result in:

an end to the discriminatory practice,

access to the housing,

compensation for expenses, lawyer's fees (if you used your own lawyer), and pain and suffering,

penalties between \$10,000 - \$50,000.

Notes

Sample
Housing
Discrimination
Complaint
Form

This booklet is an introduction to the Fair Housing Act and your legal rights.

It is our hope that it will help you to assert those rights and obtain housing which meets your needs.

This booklet cannot cover every situation. We encourage you to discuss situations with someone expert in Fair Housing law.

Consult state and local building codes regarding exact requirements for physical accessibility in housing.

Other Fair Housing Publications for consumers available from ILRCSF.

1. This booklet is available in other languages: currently in Spanish, Chinese and Russian.
2. "HOW TO BE YOUR OWN FAIR HOUSING ADVOCATE": a guide to strategies for obtaining housing that meets your needs.