The Fair Housing Act: Obligations & Responsibilities

Practical Applications for Shelter + Care Housing Providers

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Presented by the
San Francisco Mayor’s Office on Disability
What You Will Learn Today:

• Basic overview of housing providers’ legal rights and responsibilities.
• Practical tips on evaluating and providing reasonable accommodations.
• Effective ways of communicating with people with disabilities.
• Maximizing available resources to meet your legal obligations.
Quick Overview of Disability Rights’ Laws & Housing:

• Section 504 of the Rehabilitation Act of 1973.
• California’s Fair Employment and Housing Act.
• Fair Housing Amendments Act of 1988.
• Americans with Disabilities Act of 1990.
Americans with Disabilities Act (ADA)

• Title II bars discrimination on the basis of disability in programs run by states and localities.

• Title III bars discrimination on the basis of disability in public accommodations, such as a rental office, public playground or meeting rooms open to the public.
The CA Fair Employment & Housing Act (FEHA):

• Applies to public housing and most private housing.
• Applies in the application, tenancy and eviction process.
• Prohibits discrimination on the basis of race, ethnicity, gender, disability AND sexual orientation, ancestry, source of income, age, medical condition and marital status.
Who Are Qualified Tenants with Disabilities?

- Mental / physical impairment that limits a major life activity (major life activities include walking, breathing, learning, working).
- Regarded as having a disability (for example, discriminating against a gay man because you assume he is HIV+).
- History of having a disability (for example, discriminating against a cancer survivor).
What about Alcohol & Illegal Drug Use?

• Alcoholism is treated as a disability under the law – but like all tenants, alcoholics must comply with the terms of the lease.

• Current substance abusers are not protected under the law, but former drug abusers are protected. There is no specific amount of time a person must be clean or sober to be considered a former substance abuser.

*Although we may choose to operate our housing properties in a harm reduction model, federal law does not recognize current substance use as a disability requiring reasonable accommodation.
The FEHA Specifically Prohibits:

- **Differential treatment** based on disability such as refusal to rent to people with disabilities, charging higher rent, segregation within a housing complex, etc.

- **Disparate impact**: neutral rules that disadvantage people with disabilities such as first-come first-served policy & waiting lines to sign up for housing, not accepting SSI as a form of income, etc.

- Failure to grant reasonable accommodations.

- Architectural barriers or failure to provide unit modifications for access.
Disability Access Is More Than Ramps...

• Housing providers must ensure that services are not only accessible but also usable by people with disabilities. That means providing:

1. **Reasonable** Modifications to the built environment.
2. **Reasonable** Accommodations to policies and procedures.
3. Communication access.
Reasonable Modifications

- A physical alteration that is necessary for full and equal use and enjoyment of housing.
- Private landlords must allow a modification.
- Public/assisted housing providers may be required to pay for physical modifications.
You also have an obligation to maintain those accessible elements in good working order- This is called **Maintenance of Accessible Features:**

- Furniture Obstructions
- Toilet Room Trash Cans
- Elevator Out-of-service
- Missing Signage
- Broken Hardware
Reasonable Accommodation (RA) Requirements & Limits

• **Definition:** a change in policies, rules, practices, or procedures that may be needed to give a person with a disability an equal opportunity to obtain, use, or enjoy a dwelling.

• A reasonable accommodation must not cause a **fundamental alteration** to the housing program. **Examples:** helping a tenant clean up after their dog, transporting a tenant to medical appointments.

• The RA must also not cause an **undue burden** meaning so expensive that it exceeds the total budget of the entire parent company.
Evaluating a Reasonable Accommodation Request

• **Disability:** Does the tenant have a disability?

• **Accommodation:** Is the tenant requesting an accommodation of the housing provider’s rules?

• **Necessary:** Is the accommodation necessary and directly related to the tenant’s disability?

• **Cost:** Does the accommodation impose an prohibitively high cost on the housing provider?

• **Effect:** Would the accommodation effect a fundamental change in the housing provider’s program?
Communication Access

• People with disabilities MUST have the same opportunity as others to enjoy, receive and understand information from the housing provider.

• When the provider provides an auxiliary aid or service to ensure effective communication, they MUST give primary consideration to the aid or service the individual with a disability has requested.
Communicating w/ People w/ Vision Loss
Tips for Accessible Print Materials

- Be conscious of brightness and contrast.
- Large Print is considered anything in size 18+ **AND** sans serif font (Arial, Calibri, etc.).
- Do not put everything in CAPITAL letters!
Communication Methods of Deaf & Hard of Hearing People
Communication Tips for People with Cognitive or Psychiatric Disabilities

- Choose a quiet space that is free of distractions to lower anxiety level.
- Focus on one topic at a time.
- Allow frequent breaks.
- Demonstrate verbal instructions.
- Simplify concepts into smaller components.
- Make associations with already familiar ideas.
- Use pictures and other visual aids.
- Inform people before transitions take place.
- Respond to clients’ level of interest.
Next Steps for Full Disability Access

• Provide notice to your tenants about disability access features & reasonable accommodation requests.
• Become familiar w/ available resources Citywide & locally to assist tenants who need them.
• Develop policies in advance to handle disability related requests & educate your front desk and case management staff.
• When in doubt, consult with your funding department’s ADA coordinator or MOD.
Got More Questions? You Can Contact Us!

Mayor's Office on Disability
1155 Market Street, 1st Floor
San Francisco, CA 94103

Telephone: (415) 554-6789
E-Mail: MOD@sfgov.org

For a number of ADA Resources please visit our website:
www.sfgov.org/mod