



Fair Housing Rights of Tenants with Mental Health Disabilities for Landlords

1. Does the law protect people with disabilities from housing discrimination?

Yes. A person with a disability in California has the right under state and federal law,¹ to be free from discrimination in the sale or rental of housing. For example, a housing provider may not refuse to rent or sell to a person because they have a mental or physical disability. This applies to housing providers like landlords and owners. It also applies to realtors, homeowners associations, and governmental entities like local zoning groups.

2. Which housing providers must comply with anti-discrimination laws?

The laws against discrimination apply to sellers and providers of public housing. The laws against discrimination also apply to private landlords, except for landlords who own a single-family home, live in that home, and rent out only one room. Landlords who meet the exception cannot make discriminatory statements and the other fair housing laws do not apply to them.

(See Question 4 below for examples of housing discrimination.)

3. Is my tenant protected from discrimination as a “person with a disability”ⁱⁱ?

Your tenant is protected if they:

- a) have a physical or mental impairment that substantially limits a major life activityⁱⁱⁱ;
- b) have a record of having an impairment that substantially limits a major life activity; or
- c) are seen as having an impairment, whether they do have one or not.

It is also illegal to discriminate against a tenant if they are connected with someone who has a disability. A person is not protected if they would present a direct threat to the health or safety of other people or cause physical damage to the property of others. But, the person is protected if a reasonable accommodation would end the risk.

4. What are examples of housing discrimination?

Examples of housing discrimination are:

- a) Not selling or renting to a person because they have a disability, live with, or are visited by a person who has a disability.
- b) Making derogatory or harassing comments that interfere with the ability of a person with a disability to use or apply for the housing.
- c) Telling someone with a disability that housing is not available for inspection, sale or rental when it is available.
- d) Giving housing terms, conditions, privileges, facilities or services to a person with a disability that are less than those that are given to people without disabilities. For example, a landlord cannot offer someone with a disability only an apartment at the back of the complex, when other apartments are available to other tenants.
- e) Ending a sale or rental agreement because of a person’s disability.

- f) Separating people with disabilities from others in housing.
- g) Not letting a person with a disability, at their expense, to make reasonable modifications which they need to fully enjoy their home. For example, a reasonable modification would be to allow a person to install soundproofing if their mental health disability makes them sensitive to noise.
- h) Not allowing reasonable accommodations in rules, policies, practices, or services to let a person with a disability fully enjoy the premises. For example, a reasonable accommodation would be to waive a no-pets rule to let a person keep an emotional support animal in an apartment.

Examples of discrimination by local governments include:

- a) Using an unreasonable zoning restriction to block a group home location in a single family neighborhood. For example, a restriction that narrowly defines “family” and limits the maximum number of unrelated people who can live together in a house may be discriminatory.
- b) Using health or safety rules to deny a permit for the operation of a group home, when the real reason is community opposition.

For more information about the right to reasonable accommodations and modifications in housing, see these DRC Fact Sheets:

- a) *Tenants with Mental Health Disabilities: The Right to Reasonable Accommodations in Housing*
- b) *Tenants with Mental Health Disabilities: The Right to Reasonable Modifications in Housing*
- c) *The Rights of Tenants with Mental Health Disabilities to Service and Emotional Support Animals*

We want to hear from you! After reading this fact sheet please take this short survey and give us your feedback.

English version: <http://fs12.formsite.com/disabilityrightsca/form54/index.html>

Spanish version: <http://fs12.formsite.com/disabilityrightsca/form55/index.html>

The California Mental Health Services Authority (CaMHSa) is an organization of county governments working to improve mental health outcomes for individuals, families and communities. Prevention and Early Intervention programs implemented by CaMHSa are funded by counties through the voter-approved Mental Health Services Act (Prop 63). Prop. 63 provides the funding and framework needed to expand mental health services to previously underserved populations and all of California's diverse communities.

i Federal fair housing laws include the Fair Housing Amendments Act of 1988, 42 U.S.C. §§3601 *et seq.*, Section 504 of the Rehabilitation Act of 1973 (covering housing under programs that receive federal financial assistance, such as the Section 8/Housing Choice Vouchers program), and Title 11 of the Americans with Disabilities Act (covering housing operated by the state or local government). State laws include the California Fair Employment and Housing Act, Government Code §§12900 *et seq.*, and the Unruh Act, Civil Code §§51 *et seq.*

ii The California Fair Employment and Housing Act uses the term “handicap” instead of “disability,” but the meaning is the same.

iii Under federal law, the impairment must be “substantial,” but this is interpreted broadly.

