



# AN INTO TO FAIR HOUSING & PROJECT SENTINEL'S FAIR HOUSING CENTER

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# AGENDA

- **Federal & State Fair Housing Laws**
- **Other Hot Topics**
  - **Service Animals & Reasonable Accommodations**
  - **Immigration Status**
  - **Occupancy Standards**
  - **Criminal Record Policies**
- **Administrative Complaints & Lawsuits**
- **Developing Pro-Active Fair Housing Policies**
- **Project Sentinel Resources**

# 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 of similar income levels to have available to them the same housing choices, regardless of personal characteristics such as race or national origin.

# FEDERAL & STATE FAIR HOUSING LAWS

*- SEE HANDOUT -*

## HIGHLIGHTS:

- Civil Rights Act of 1866
- Fair Housing Act & Fair Housing Amendments Act (“FHA”)
- California Fair Employment & Housing Act (FEHA)
- Unruh Act
- Ralph Civil Rights Act

# CALIFORNIA FAIR HOUSING LAWS

<b>Federal Fair Housing Act Protected Classes:</b>	<b>California Fair Employment &amp; Housing Act Adds:</b>
<b>Race</b>	<b>Marital Status</b>
<b>Color</b>	<b>Sexual Orientation</b>
<b>Religion</b>	<b>Ancestry</b>
<b>National Origin</b>	<b>Source of Income</b>
<b>Sex</b>	<b>Gender Identity/Expression</b>
<b>Familial Status</b>	<b><u>Unruh Act Adds:</u></b>
<b>Disability</b>	<b>Immigration Status, Primary Language, Citizenship, Arbitrary Characteristics (Age, Occupation, Etc.)</b>

## TYPES OF HOUSING COVERED

- Dwelling unit:  
*occupied or designed  
as a residence.*

# 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

# PROHIBITED ACTIVITIES

## - SEE HANDOUT -



### DISCRIMINATION IS RARELY THIS OBVIOUS, BUT IT'S JUST AS REAL. AND JUST AS ILLEGAL.

If the landlord gives you the runaround or says:

"We don't take kids."

"The apartment you asked about on the phone has been rented."

"We only take people who speak English clearly."

"We don't take teenagers."

"The ad was wrong – the rent is really \$50 more."

"I can't assign you a handicap parking space."

**THAT COULD BE HOUSING DISCRIMINATION.**

The only way to stop housing discrimination is to report it, so we can investigate it.

Visit [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing) or call HUD's Housing Discrimination Hotline

**1-800-669-9777** (voice) **1-800-927-9275** (TTY)



The federal Fair Housing Act prohibits discrimination because of race, color, religion, national origin, sex, family status or disability.

**NFHA**  
National Fair Housing Alliance

# PROHIBITED ACTIVITIES

## - *SEE HANDOUT* -

- 1) Refusal to rent, sell, or negotiate
- 2) Different terms, conditions, privileges, or provision of services or facilities
- 3) Steering
- 4) “Otherwise make housing unavailable”
- 5) Statements or advertisements indicating a preference, limitation, or discrimination based on membership in a protected class
- 6) Prohibited Advertising:
- 7) Making false representations
- 8) Blockbusting
- 9) Harassment & Retaliation
- 10) Lending Discrimination
- 11)

**“BUT I WASN’T TRYING TO  
DISCRIMINATE.”**

## **Disparate Impact**

- **Unique part of fair housing: no intent required**
- **Neutral rule, policy or practice, BUT leads to discriminatory result**

# HOT TOPICS

- Service animals & reasonable accommodations
- Immigration
- Occupancy standards
- Criminal history policies

# MOST COMMON TYPES OF DISCRIMINATION

- **Statistics from the U.S. Department of Housing & Urban Development (HUD):**
  - **53% Disability**
  - **28% Race**
  - **14% Familial Status**
  - **12% National Origin**

# HOT TOPICS: SERVICE ANIMALS & REASONABLE ACCOMMODATIONS

**You have a nice  
set of wheels but  
can't find a place  
to park them.**



The Fair Housing Act requires most multi-family dwellings built since March 13, 1991 to be accessible to people with disabilities. Mandatory features include:

- An accessible entrance on an accessible route, accessible parking, public and common use areas.
- Bathrooms and kitchens with usable sinks, toilets, tubs, and appliances.

If you are looking for an apartment and find you can't get in because of barriers such as steps, steep slopes and lack of curb cuts, or you get in and find that the kitchen and/or bathroom aren't usable, please call.

We will investigate to determine if the building violates the federal Fair Housing Act.



National Fair Housing Alliance  
1-800-910-7315  
[www.nationalfairhousing.org](http://www.nationalfairhousing.org)

# HOT TOPICS: SERVICE ANIMALS & REASONABLE ACCOMMODATIONS

## Definition of disability:

### ■ Federal law:

1. Physical or mental impairment
2. Which **substantially limits**
3. One or more major life activities

### ■ State law:

1. Physical or mental impairment
2. Which **limits**
3. One or more major life activities

Covers people who are currently disabled, people who have a record of impairment, and people who are regarded as impaired

# HOT TOPICS: SERVICE ANIMALS & REASONABLE ACCOMMODATION

Disability → Reasonable Accommodation

■ Definition:

1. Change in a housing provider's rules, policies, practices, or services
2. That is necessary
3. To afford a person with a disability
4. Equal opportunity to use and enjoy a dwelling

# HOT TOPICS: SERVICE ANIMALS & REASONABLE ACCOMMODATIONS

Disability → Reasonable Accommodation → Service Animals

## ■ Companion/Emotional Support/Therapy Animal

- Not restricted by type or breed (can be dog, cat, bird, etc.)
- Does not need to be specifically trained, does not need to do a specific task
- Provides support to disabled person by virtue of its very presence
- No “pet rent” or “pet deposit”

# HOT TOPICS: IMMIGRATION STATUS

## UPDATE: 2017 IMMIGRANT TENANT PROTECTION ACT

### ■ Prohibits:

- Inquiry about applicant or tenant's immigration or citizenship status
- Requiring applicant or tenant to state or certify immigration or citizenship status

### ■ Permits:

- Verification of identity
- Verification of financial qualifications

See Cal. Civ. Code § 1940.3

### ■ AB291:

- Reporting or threatening to report to authorities a tenant because of their perceived immigration status.
- Example: "If you keep complaining, I will send you back to your country!"

# HOT TOPICS: FAMILIAL STATUS & OCCUPANCY RESTRICTIONS

## Overly restrictive occupancy standards

**“2 + 1” Guideline:** Two people per bedroom, plus one extra person

- Occupancy standards more restrictive than 2 + 1 are presumed to be discriminatory against families with children
- Legitimate business exception

# OCCUPANCY RESTRICTIONS

**MAXIMUM:** For 1 – 2 people: at least 120 sq ft of living space + all other habitable rooms at least 70 sq ft; for more than 2 occupants, must increase by 50 sq ft for each additional person (Cal Health & Safety Code)



**WITHIN HOUSING PROVIDER'S DISCRETION**



**MINIMUM:** 2 people per bedroom plus 1 extra (DFEH guideline)

- D. Tenant, member of the household or guest or other person affiliated with the tenant SHALL NOT engage in any act intended to facilitate criminal activity including drug-related criminal activity, on or near the said premises.
- E. Resident or members of the household WILL NOT permit the dwelling unit to be used for, or facilitate criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household or a guest.
- F. Tenant, any member of the tenant's household or a guest, or another person affiliated with the tenant SHALL NOT engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance or marijuana at any locations, whether on or near the dwelling unit premises.
- G. Tenant, any member of the tenant's household, or guest or another person affiliated with the tenant SHALL NOT engage in any illegal activity including prostitution, criminal street gang activity, threatening, intimidating or stalking, assault, the unlawful discharge of firearms, on or near the dwelling unit premises, or any breach of the Rental Agreement that otherwise jeopardizes the health, safety, and welfare of the landlord, his agent or other tenant or involving imminent or actual serious property damage.

I. The following individuals are not allowed to occupy any apartment in the complex. Any tenant allows individual with any of the background to move in or occupy an apartment is a violation of this provision and will be grounds for termination of Agreement by Management:  
 (i) Felony probationer, or  
 (ii) Registered sex offenders, or  
 (iii) Ex-parolee, or  
 (iv) Ex-felony probationer

- I. ~~Guardians or Parents of juveniles on juvenile probation or juvenile parole, who list said juvenile on a Rental Agreement~~ must disclose to management the juvenile's probationary or parole status. Management may approve of the juvenile's occupancy with their parent/guardian. Such approval shall be obtained before the juvenile is allowed to occupy the property. Failure to disclose the probationary or parole status of a juvenile, listed on the Agreement, will be subject the primary tenant/guardian or parent to eviction.
- J. Tenant, any member of the tenant's household, or guest or another person affiliated with the tenant SHALL NOT engage in any Public Nuisance activity as defined in California Penal Code Section 370. Nuisance activity effecting the public is defined as anything which is injurious to health or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons.
- K. Violation of the above provisions SHALL BE a material and irreparable violation of the Agreement and good cause for immediate termination of the tenancy. A single violation of any of the provisions shall be deemed a serious violation and a material and irreparable non-compliance.
- L. It is understood that a single violation shall be good cause for immediate termination of the Rental Agreement. Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be proven by the preponderance of the evidence, or substantial evidence of the type reasonably relied on by Property Manager in the usual and regular course of business.

**16. PROHIBITION OF WEAPONS**

- A. Management does not tolerate acts of violence or hostility committed by or against residents, employees, contractual workers, volunteers, visitors, or other third parties in the complex. This provision applies to the personal conduct of a tenant, whether on or off-landlord owned property.
- B. Tenants, employees, or any visitors or other third party visiting an office, residence, or other landlord controlled property, are further prohibited from carrying, maintaining or storing a firearm or weapon on any company facility.
- C. Any such individual who is reported or discovered to possess a firearm or weapon, will be asked to remove it immediately. Failure to comply may result in a judicial referral and/or arrest or immediate eviction proceedings in the case of a tenant or guest and/or visitor of said tenant.
- D. All incidences pertaining to weapons will be followed immediately by the appropriate authorities.

**17. PROHIBITED CONDUCT AND SANCTIONS**

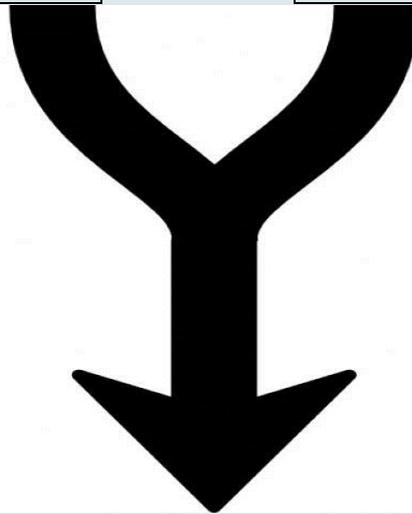
Violence includes, but is not limited to, intimidation, threats, physical attack, domestic and dating violence, stalking, or property damage, and includes acts of violence committed by or against the landlords, residents, employees, contractual workers, customers, relatives, acquaintances, or other third parties in the Complex. A violation of this policy shall be

HOT  
 TOPICS:  
 CRIMINAL  
 RECORDS  
 POLICIES

# CRIMINAL RECORDS POLICIES

**Black & Latino men  
overrepresented in  
prison system**

**Housing providers  
deny anyone with  
arrest or conviction**



**Black/Latino men disproportionately  
impacted & face insurmountable  
barriers to stable housing**

# CRIMINAL RECORDS POLICIES

**April 4, 2016**

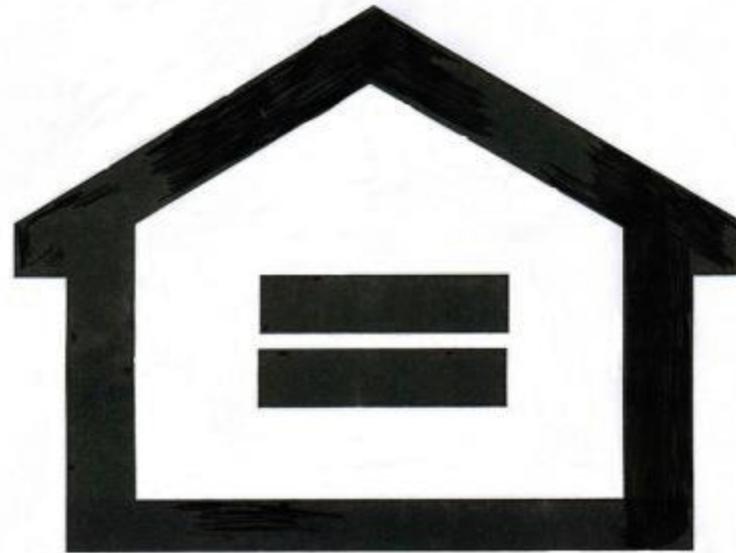
**Office of General Counsel Guidance on  
Application of Fair Housing Act Standards to the Use of Criminal Records  
by Providers of Housing and Real Estate-Related Transactions**

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## **3 STEP ANALYSIS:**

- 1. Does the criminal history policy have a discriminatory effect?**
- 2. Is the policy necessary to achieve a substantial, legitimate, nondiscriminatory reason?**
  - *No hypotheticals***
  - *No arrests***
- 3. Is there a less discriminatory alternative?**

# ADMINISTRATIVE COMPLAINTS & LAWSUITS



**EQUAL HOUSING  
OPPORTUNITY**

# ADMINISTRATIVE COMPLAINTS & LAWSUITS

- Individuals, private fair housing groups, government agencies, and classes of people may file a complaint
  
- An aggrieved party can:
  1. File a lawsuit in federal court within 2 years of the alleged discriminatory act; or
  2. File an administrative complaint with HUD/DFEH within 1 year of the alleged discriminatory act

# LITIGATION

- **Lawsuits alleging violations of FHA may be filed in federal court**
- **Lawsuits alleging violations of FHA/FEHA may be filed in state court**
- **No “right to sue” letter required prior to filing**

# Overview of Best Practices

# PRO-ACTIVE FAIR HOUSING POLICIES

- 1. Set clear, consistent policies & procedures**
- 2. Provide fair housing training to all staff**
- 3. Publish & display equal opportunity housing policy**
- 4. Develop, print & distribute rental eligibility criteria to all applicants**

# 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)

# FAIR HOUSING TRAINING FOR HOUSING PROVIDERS

- 3 – hour comprehensive workshop
- HUD – qualified agency (will meet requirements for DFEH/HUD settlements)
- Certificate of Completion
- Modestly priced
- Customizable



**FOR MORE INFORMATION:**

**Molly Current, Director of Strategic Initiatives  
(408) 470-3741  
mcurrent@housing.org**

# THANK YOU

Project Sentinel

Contact us at:

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

[info@housing.org](mailto:info@housing.org)

**1 (888) FAIR HOUSING**

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