Guide to Renting and Managing Property: The Fair Housing Way

Families

Rental Housing

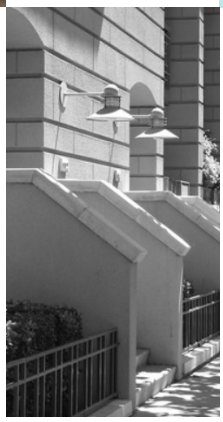
FAIR HOUSING

People with Disabilities

Safe Housing

Law

Inclusion



Tenants

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Housing Equality Project of Silicon Valley

The Housing Equality Project is a collaboration Between Project Sentinel and the Law Foundation of Silicon Valley

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Introduction

The Housing Equality Project, a partnership between nonprofits Project Sentinel, Inc. and Law Foundation of Silicon Valley, is pleased to present this **Guide to Renting and Managing Property the Fair Housing Way.**

Who should use this handbook? This book is designed specifically to help people who own and/or manage only one rental property or very few. We know that small-scale owners and managers may not have trained, professional management companies to help them or the resources to retain a lawyer, and that it may be harder for them to get easy-to-understand information about fair housing (discrimination) laws. Therefore, the goal of this handbook is to give basic advice on how to comply with fair housing laws. The questions below, in fact, are based on real questions about fair housing that small housing providers often ask us.

Because this handbook is designed for small-scale property owners and managers, we do not discuss how the law applies to properties that receive federal funding, accept federally subsidized rents, or operate under specific state licensing requirements. If your property does receive any form of federal funding or rent subsidies, please note that fair housing laws may be different for you, and that additional laws may apply to you. Be sure to ask for help from the United States Department of Housing and Urban Development or an attorney if you have questions about housing discrimination for this kind of property. The laws discussed in this handbook *do apply*, however, if you rent to tenants using Section 8 vouchers under the Housing Choice Voucher program.

How should you use this handbook? This handbook is not a substitute for a lawyer's evaluation of any specific fair housing problem you may have, and is not intended to provide legal advice. The specific examples we give are merely illustrations to help you understand how the law works, and may or may not be the way the law would apply to your specific situation. What we hope is that you will gain a better understanding of fair housing laws and how they work, be better able to recognize fair housing issues when they happen, and know when and where to get help.

What is fair housing? Fair housing laws make it illegal to discriminate against applicants for rental housing, tenants, or homebuyers in housing.

Why should you care about fair housing? First, renting and managing your property the "Fair Housing Way" is just good business: you will have better tenants, better neighborhoods, and better protection of your investment. Second, the law says you must rent and manage your property without discriminating. If your tenant sues you for discrimination, and a court rules against you, you can be forced to pay a significant amount of money to your tenant and could damage your reputation as a small business owner.

This booklet covers laws that apply nationally and in California. There may be more specific local rules in your area that are not described in this booklet. In addition, this booklet will not discuss general landlord-tenant questions, such as security deposit issues, lease terms, or notices. For help with those questions, please contact an agency listed in the resources reference in the back of this booklet.
If you have more questions after reading this handbook, or have a specific fair housing issue you would like some help with, you can call us with any questions using the contact information on the back cover of this book, or you should talk to a lawyer.

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Fair Housing Basics

"Fair housing" is a term for the laws that prevent discrimination in housing. Housing discrimination happens when housing providers treat applicants or tenants differently because of special traits. The law calls these special traits "protected categories." Both federal and California law protect seven such traits: race, color, national origin, religion, sex, familial status, and disability.

Housing discrimination happens when someone is treated differently *because of* a special trait that is protected by the law. For example, it is illegal not to rent to someone because he or she is disabled, because disability is a protected special trait. Other examples of illegal housing discrimination include:

- Not letting children play outside or having rules that unreasonably limit where children play.
- Refusing to allow a tenant who uses a wheelchair or a walker to have a closer parking spot when one is available and the tenant asks for one.
- Putting tenants of one race or national origin in a particular or area of a property.
- Refusing to rent to an applicant because he or she relies upon disability income to pay rent.

California Law Note — Additional Protected Groups

California protects six additional special traits: sexual orientation, gender identity and expression, source of income, marital status, age, and arbitrary characteristics.

Example: Refusing to rent to someone because he is gay.

Discrimination is illegal during any part of the rental or sales process, from what is said in advertisements, to choosing applicants, to how tenants are treated once they are living on a property, to how tenants are evicted. It can apply to how housing providers treat the guests or caregivers of tenants.

Good Fair Housing Practices are Good Business Practices. Housing providers should choose applicants based on whether they are likely to be good tenants, not based on *assumptions.* The best practice is to base decisions on neutral, individualized facts such as credit reports and past rental history, not stereotypes and assumptions.

Housing discrimination laws apply to your property.

California Law Note — Which Housing Providers are Covered

In California, fair housing laws apply to all housing providers, except those who share the same home as their tenants.

Fair Housing Basics: Frequently Asked Questions

What can I say in a rental advertisement?
You can ask that tenants make a certain amount of income, have good credit, and do not have a criminal background. However, you can't say that you prefer a certain group of people in your advertising. This means that you can't say that you prefer applicants who are Chinese or have a job. Be careful about limiting the number of people in the home (i.e. advertising the maximum number of people who can live in the apartment), as that may be discrimination against families with children (see below for more information). It is OK to say "no smoking" and "no pets."

Examples of discriminatory statements in advertisement include:

"I prefer tenants who speak Mandarin."
"Young professionals only."
"Not accessible for the disabled"
"Not ideal for children."
"I'm only looking to rent to one person or a couple."
"Proof of two years of steady employment required."
"Students only."
"I am a Christian and want to rent to someone with similar values. It is against my religion to rent to anyone who is gay."

Also, it is a good idea to advertise in many places and ways. If you only advertise in a foreign language, for example, or just in a specific ethnic newspaper or websites, you may be showing an illegal preference for tenants who speak that language or have that ethnicity. The best practice would be to advertise in as many different newspapers as possible to make sure that your rental property is available to everyone to rent.

How can I avoid discriminatory advertisements?
The best thing you can do is to advertise the features of the property itself. Talk about the property's amenities, nearby services, minimum rental qualifications and the cost to rent the unit in the advertisement. Don't advertise your unit by describing the type of tenant you think would be happy living there, because you may end up saying things that sound like you only want to rent to someone based on a protected special trait – for example, someone who has children. If you do include requirements for the kind of applicant you are looking for, be sure to use criteria that anyone with a protected special trait can meet, such as "long-term tenant" or "tenant with a good credit history." On the other hand, saying that the unit is "best for a young, working couple with steady jobs" could get you in trouble because it sounds like you do not want families with children, which is a protected special trait.

Do fair housing laws require that I rent to the first qualified applicant?
Fair housing laws do not tell you how to pick applicants, except to say that you can't refuse to pick applicants based on a protected special trait. The safest and best practice, however, is to decide your rental qualifications in advance, and be sure those qualifications are objective. Objective qualifications you can use include income level or ability to pay, good credit record, no previous evictions, and references from previous housing providers. You can base your final decision on time of receipt (the first application you receive from someone who meets your qualifications); or credit score (qualified applicant with the highest credit score); or income (qualified applicant with the highest income); or any other criteria that has no relation to a protected special trait.

What factors are NOT OK to consider in deciding who to rent to?
You can't ask applicants whether they are citizens, legal residents, or undocumented immigrants. You also can't ask questions about protected special traits – for example, you can't ask applicants about their disability. California law says you can't ask whether an applicant is married or gay. You should not make assumptions about applicants based on their race, religion, or other protected special trait. For example, you can't refuse to rent to an Indian family because you think they will cook with curry and cause strong cooking smells that will bother other tenants, or refuse to rent to a Mexican family because of the stereotype that they will move in their relatives without your permission.

How do I respond if applicants ask me what kinds of people live on my property?
You should simply respond that you can't answer the question because it could be considered discriminatory. You can encourage interested applicants to visit the apartment and see the property and neighborhood for themselves, of course, but trying to describe the kind of people that live on the property is a dangerous practice. For example, if you volunteer that no families with children live on your property, applicants might think you are saying this to discourage families with children from applying to rent an apartment there. It may also be considered discriminatory to say that your current tenants are mostly Mexican.

I hire a property manager to take care of my property. Why do I need to know about fair housing laws?
You are responsible for what your property manager or any other employees do, including maintenance staff. If they break the law, treat tenants unfairly, or discriminate, you could get in trouble, regardless of whether you approved or knew of the discrimination. You should make sure that your property manager and staff are properly trained, especially about fair housing laws. Understanding the law and your responsibilities towards tenants will help you to make good decisions and give instructions about renting and managing the property that follow the law.

What should I do if I discover that one of my tenants has harassed another tenant because of a protected special trait?

Tenants sometimes have disagreements with one another, and you may feel like those disagreements are not your concern. As a housing provider, however, you must step into a disagreement if one tenant is harassing another tenant because of a protected special trait. This could happen if certain tenants are bothering tenants with children because they don't like being around children, or because they don't like other tenants' religion or race. This is discrimination and you must take action as soon as you know there is a problem.

When your tenants tell you that they are being discriminated against by other tenants, you should do what you can to investigate the complaint. One way to investigate is by talking to anyone who may have seen what happened to the complaining tenant or to the neighbors of the tenants involved. You can also ask to see any notes, text messages or other documents that might verify what happened. If you decide that the complaint is true, you must take some action. An action may include warning tenants who are harassing and discriminating against other tenants, giving them a notice, or even evicting them. It is always a good idea to let your tenants know upfront that you will not put up with any discriminatory behavior. However, you shouldn't just evict all of the tenants involved in the disagreement without trying to investigate the discrimination complaint.

You should be especially careful in dealing with noise complaints about families with children or people with mental disabilities. When you receive these complaints, make sure that the tenant who is complaining is being reasonable and try to determine whether other tenants agree with the complaints of excessive noise. If the tenant who is complaining just doesn't like children, or feels uncomfortable being around someone with mental disabilities who may act and sound differently, then he or she could be discriminating against those tenants by complaining. Moreover, if you take action against the tenants who are being complained about without seeing for yourself whether the complaint is true, you could get in trouble for discriminating too.

What else can I do make sure that I am complying with fair housing laws?

There are several things that you can do to make sure you and your staff are obeying the law. These include:

- Educate yourself and your staff. You and your staff should attend a fair housing training at least once a year. The law changes from time to time and you should stay updated.
- Join a professional association of other housing providers like you. There are several in the area, including the California Apartment Association, the Rental Housing Network, the Rental Housing Association, and the National Association of Rental Property Managers. These organizations often provide free or low cost training and some of them also provide technical assistance.
- Have written lease agreements, rental policies, and house rules that have been reviewed by a lawyer with experience in fair housing laws. Make sure you follow those rules.
- Keep good written records for at least five years. You should have written records of rent receipts, written notices, rules, lease agreements, rent increases, and repair requests.

- If you find yourself in a situation that poses a fair housing question, you are welcome to call Project Sentinel for a free and confidential consultation. Although we can't provide you with legal advice, we may be able to explain the law to you or point you in the right direction. Contact us at (888) 324 -7468 or info@housing.org.

What should I expect if I have been served with a complaint of housing discrimination by HUD or DFEH?

HUD and/or DFEH will investigate the complaint. Both HUD and DFEH are neutral investigative agencies. They are not on the side of either the applicant or tenant or the housing provider. Their job is to simply investigate to see whether the facts show that fair housing laws were followed.

The way that HUD and/or DFEH investigate complaints includes talking to you and the applicant or your tenant, reviewing any documents, and talking to any witnesses. You will have a chance to tell the investigator your side of the story, and to give him or her any documents you have that support your case.

Most discrimination complaints are settled through negotiation. Both agencies offer a confidential process for both parties to resolve the case before they make a decision about whether the law has been broken. You are not required to hire a lawyer to help you in the investigation or negotiation steps of the complaint process, but it is often a good idea to have one.

Cases that do not settle through negotiation go through a full investigation. At the end of the investigation, HUD or DFEH will either find that there was discrimination, or find that there was not enough evidence to support your applicant or tenant's discrimination claim. If there is not enough evidence, the agency will close the case. If there is enough evidence, the agency may file a lawsuit against you, request that you try to settle the case, or let the applicant or tenant decide if he or she wants to sue.

While it can be upsetting to be accused of discriminating, try to respond to a complaint in a professional, calm way. Be careful how you treat your tenant after he or she makes a complaint. It is illegal for you to retaliate, punish, or take any negative action against your tenant for filing a claim for discrimination, such as rent increases or eviction.

Race, Color, and National Origin Discrimination

Race discrimination happens when housing providers treat tenants differently because of their race. Race refers to whether a person is White, Black or African American, Asian, American Indian or Alaskan Native, Native Hawaiian or Pacific Islander, or some combination of these races. Race is closely linked with color, which refers to the color of a person's skin.

National origin, in comparison, refers to a person's place of birth, ancestry, or ethnicity. For example, a person's national origin could be Hispanic/Latino, Mexican, Chinese, Indian, or Filipino. Housing providers can't treat people differently because of where they come from, or the customs, culture, dress, and food of their country of origin. They also can't treat people differently based on their language, whether or not they speak English, or have an accent. National origin discrimination does not just happen to people who are recent immigrants to this country; it can also happen to people who were born and raised in the United States, but have parents or grandparents who were born in another country or are otherwise identified as belonging to a family or culture from another country.

Race, Color, and National Origin: Frequently Asked Questions

What is considered discrimination based on race, color, and national origin?
Discrimination based on race, color, and national origin includes:

- Refusing to rent to someone because of their race, color, or national origin.
- Limiting where people of a certain race can live on the property based on their race, color, or national origin. For example, only allowing Indian tenants to live on certain floors because of a belief that their cooking will smell or because of the theory that those tenants will be more comfortable together.
- Preferring a certain racial or national origin group. For example, only renting to Asian families because of a belief that they are quiet or manage their money well, or because the housing provider is Asian and likes to rent to tenants from the same place he or she is from.
- Charging people different rents or security deposits based on their race, color or national origin. For example, charging Black tenants higher security deposits because of a belief that they have bad credit or are more likely to damage the property.
- Applying different rules to different tenants because of race, color, or national origin. For example, evicting Hispanic tenants the first time they are late with rent when non-Hispanic tenants are allowed to be late several times before being evicted.
- Harassing a tenant because of race, color, or national origin, or allows other tenants to harass a tenant for those reasons.
- Treating tenants differently in any way because of race, color, or national origin. For example, only making repairs in units of White tenants but not African American tenants.

Do rules prohibiting race, color, and national origin discrimination apply to guests?
Your tenants should feel comfortable in their homes, and should have the chance to spend time with their friends or family. You can't treat your tenants' guests differently based on race, color, national origin, or any other protected special trait. You also can't require that your tenants limit their guests to persons of certain races. Additionally, you should be sure to treat all guests the same. For example, one property manager got in trouble because he stopped and questioned his tenant's African American guests, but not Asian or White guests. This kind of different treatment is likely based on beliefs about certain races, and could lead to your tenant making a complaint about discrimination.

What if most of the tenants that live on my property are of the same race or national origin? Am I violating fair housing laws?
If the races of tenants living on your property reflect the races of people that live in the community where the property is located, then it is unlikely that you are discriminating. For example, a property located in an area of town where most residents are Asian is likely to be filled with tenants who are mostly Asian. However, if almost all of the tenants living on the property are White, and the property is located in the same neighborhood in the previous example, this might signal a problem. If this has happened at your property, you should review how you advertise for and choose applicants to be sure you are not unintentionally discriminating against some applicants. Sometimes you may have policies or rental qualifications that have the effect of unintentionally causing discrimination, and this can also get you in trouble. In addition, if you are not the one who is making rental decisions, make sure that your manager knows about fair housing laws and is not picking applicants based on a protected special trait. Sometimes managers and owners of a particular race or national origin prefer to rent to applicants that have the same race or national origin that they do, and this is unlawful.

What if I am worried that because certain applicants are from a specific culture, they will cook foods that will damage your property or do things that will bother other tenants?
While it is understandable that you want to rent your property to tenants that will take care of it, you should never assume someone will be a bad tenant just because he or she comes from a specific culture or county. People from all places and cultures can be responsible and considerate tenants, and people from all places and cultures can be terrible tenants. You can't tell whether someone will be a good tenant because of where they come from; you can only tell that based on that specific applicant's history and character. A better way of protecting the property is to make sure you have an applicant screening process that checks whether applicants have ever been evicted or charged for excessive damage to their unit by a previous housing provider. Another way to protect your property is to charge a security deposit, so that you can subtract the cost of the damage from that security deposit if you later discover that your tenants have damaged your property. If you do this, though, be sure you are charging the same security deposit for all tenants and not a higher deposit for tenants from a particular country or ethnic group. You can't always tell who will take care of your property and who will not, so charging an adequate security deposit for all tenants will legally protect you.

Can I require that applicants provide me with a driver's license or Social Security number?
As a housing provider, you are allowed to verify the identity of applicants to whom you are renting your property and to verify their credit, check for evictions, or check their criminal history. In general, you are allowed to ask for some verifying documents to check this information. However, you can't require documents that applicants would only have if they are legally in the country or that would be harder for applicants who are not from the United States to give you. In other words, you can't require information or documents that ask whether applicants are in the country legally, and not accept other types of documents that would serve the same purpose if the applicants do not have the exact information or document you want. Social Security numbers are a good example: only people legally in the United States will have social security numbers. Because of this, you can ask for a driver's license and social security card, but if applicants do not have either of these, you should be willing to accept foreign ID documents like passports and Consular IDs, or taxpayer ID numbers. These documents will do what you need: verify that applicants are who they say they are, and allow you do background checks. You do not need a Social Security number to check applicants' credit or to do a criminal history check. Many online companies allow you to do these checks with just applicants' names and their current or last address.

California Law Note — Inquiring About Citizenship

Can I ask applicants whether they are in this country legally, or ask them to show me proof of citizenship?
In California, you can't ask tenants whether they are in this country legally or require proof of citizenship or legal status. You can still ask them to provide proof of income, identification, or other information you need to run a credit check.

If, after renting to certain tenants, it becomes clear that there are cooking smells that are really bothering others, you should deal with the smells the same way that you would deal with any other smell that is causing a problem on your property. Just be sure the complaints are genuine and reasonable, and not the result of prejudice or stereotyping.

If my tenants speak a different language, do I have to translate the lease into their language?
Failure to provide meaningful access for persons with Limited English Proficiency (LEP) to federally funded housing programs is discrimination on the basis of national origin. Federally funded housing providers are required to have a language access plan for oral and written communication to ensure meaningful access for applicants and tenants with LEP.

California Law Note — Translation

California law only requires that you translate the lease if you negotiate the lease with your tenants in a specific language. For example, if you negotiate the terms of the lease in Mandarin, then you must translate the lease into Mandarin. In other cases, if you have the ability to translate the lease, you should do so because tenants who understand their lease are more likely to comply with its terms. The same idea applies for notices. While the law may not force you to give notices to tenants in the language they speak, it is a good idea to do that if you can. Tenants are much more likely to do what you want if they can easily understand what you need from them.

Do I have to provide a translator to talk with tenants who do not speak my language, or can I just prefer to rent to people that speak my language because it is easier?
You are not required to provide a translator. However, you are required to allow your tenants to use translators, even if translators are their friends or child. As well, if you have a property manager who speaks your tenants' language, you must allow the manager to speak with them in that language, and to otherwise work to find ways to make is easier to talk with them. In the end, that will help you have tenants that do what you want them to do.

While working with tenants who do not speak your language may sometimes require more effort, you can't just rent to tenants that do speak your language because that is easier or you believe that everyone living in America should speak English. Renting **only** to people that speak the language you speak is likely to be considered national origin discrimination because it could show that you prefer tenants from a certain racial or national origin background.

Recipients of federal funding are required to have a language access plan, which outlines procedures for providing oral interpretation and written translation of documents for persons with LEP. Applicants and tenants with LEP shall not be required to bring their own oral interpreters.

Familial Status Discrimination

Familial status discrimination means treating tenants differently because they have children under 18 in their home. This also applies to pregnant women and families who have foster or adopted children, or who plan on adopting or fostering children. Put another way, familial status discrimination is really discrimination against children. Familial status discrimination is one of the most common fair housing complaints that tenants have against housing providers. Examples include:

- Refusing to rent to families with children.
- Only letting families with children live in certain parts of the property or on certain floors.
- Limiting children's access to parts of the property, such as a grassy play area or a recreational room.
- Not letting children play or make noise outside.
- Requiring that children be watched by an adult at all times, regardless of age.
- Refusing to rent to families because they have too many children or because the family is too large if the apartment or house is large enough for a family that size.

Familial Status: Frequently Asked Questions

Can I have an "adults only" policy or decide I want to rent only to seniors?
You can never refuse to rent to applicants with children because you want to have an "adults only" unit or even an "adults only" property. Sometimes, as a housing provider, you may think that a unit or a property is not a good place for children to live, but this is not your decision to make. You are also not allowed to only rent to adults because you want to create a certain kind of community or attract certain kinds of applicants.

Can I charge a higher rent or higher security deposit for families with children? I am concerned about the damage children could cause to my property.
You can never charge a higher rent or security deposit simply because you are renting the unit to families with children. This is treating families with children differently than other tenants, and makes it more expensive for families to obtain the same kind of housing that people without children could get. The better practice would be to charge enough of a security deposit to cover any damage your tenants cause and provide them with an incentive to take care of your property while they are living there. And remember that a good applicant screening process will ensure that you don't rent to any applicants, including families with children, who have not been responsible tenants in the past and have caused excessive damage to their previous homes.

Can I decide that only certain units are good for families with children or put all of the families with children in a specific unit or area of the property?
Only allowing families with children to live in certain units or certain areas of a property is called "steering" and is not allowed. A family may choose a unit that is near the playground or on the first floor, but it must be their choice, and not yours.

Can I limit how many people can live in my unit?
In general, you are allowed to limit how many people will live in a house or apartment, but this limit must be *reasonable.* Trying to restrict the number of people beyond what is reasonable can mean that families with children will be unfairly denied the chance to rent a home they can safely and comfortably live in. This may be discrimination even if you didn't mean to exclude families, because the result of this policy is that families with children will not be able to rent the unit simply because of the number of people in their family. To be sure your limits are reasonable, you should not count infants towards the maximum number of people in the home.

California Law Note — Occupancy

In California, as a general rule for most apartments and houses, you can use the "2 plus 1" guideline to figure out what would be a reasonable number of occupants to allow in a house or apartment. The "2 plus 1" guideline says that you should ordinarily allow at least two people per bedroom plus one other person. For example, you should allow at least three people to live in a one bedroom unit (2 people for the one bedroom, plus one additional person), and five to live in a two bedroom unit (two people for each bedroom plus one).

What if I don't think the unit or a part of the property is safe for children?
First, it is your duty as the housing provider to ensure that the unit and the common areas of the property are safe and in good repair. If part of the property is unsafe, you should fix it.

However, your concerns may come from something you can't control, like a busy street, a stairwell, or a parking lot. In these cases, it is usually OK for you to make rules to protect the health and safety of all tenants, but these rules must apply to all tenants, not just children, and they must be reasonable. Keep in mind that it is not up to you to decide how a child may safely live on the property. For example, it is not for you to decide that a second floor unit is not safe for a toddler, or that the street in front of the property is too busy for small children to live on the property. If you have concerns, make sure the parents see the property and understand its location and features so that they can decide whether it is a good place for their family to live. In the end, though, it is the parents' duty to ensure their children's safety, not yours, and to decide whether and when their children need supervision.

Can I have rules limiting where children play, how loud they are, or where they can leave their toys? This is generally a tricky area for housing providers because rules that put too many limits on children can be illegal. Remember that children are tenants too, and they have the same right to use and enjoy the property as adults. If your rules do not allow children to use the property the same way that adults do, or they do not allow children to do the things that children normally do, you may get in trouble.

Here are some general guidelines:

- Rules that only apply to children are often illegal. For example, you can't have rules like "No kids in the common area" or "Children are not allowed in the recreation room." Instead, your rules should apply to all tenants the same way. For example, you can have a rule that that says that all tenants can't loiter in the parking lot. This rule applies to all tenants and relates to a safety concern, as standing or walking around in the parking lot can be unsafe for anyone. You may also have a rule that requires all tenants to bring all belongings--not just toys--inside when they are not using them.
- On the other hand, you can't have a rule that says "No playing on the grass or bouncing balls." These kind of rules single out children and child-related behaviors, even if they don't specifically say that children can't do these things.
- You also may not have "adult only" and "children only" areas of the property. All tenants should have access to the entire property.

What should I do if my tenant complains that another tenant's children are making too much noise? This is a common issue. In general, children must be allowed to make a reasonable amount of noise for their age. Babies cry, and kids yell when playing outside, and they must be allowed to do these things within reason. However, you *may* have a noise rule that applies to all tenants, such as quiet hours, or prohibiting noise that is so loud that it prevents tenants from being able to enjoy their homes. Make sure that you apply any noise rules equally and reasonably to all tenants, not just to children.

When one tenant complains about noise from another tenant's children, you should find out whether the children were making a reasonable amount of noise for their age, activity, and the time of day. Ask the tenant who is complaining what the children were doing and when they made the noise. Were the children playing in the afternoon after school? Or was it at midnight? Was it one child or many? Did someone get hurt and was crying? Was it a baby or teenagers?

You should also consider whether the tenant who is complaining has a problem with living around children, and is being less tolerant of the normal noise that children make than a reasonable person would be. If he or she is the only tenant complaining about the noise, while other neighboring tenants do not seem to be bothered, the problem may be with the person complaining and not with the family.

If you decide that the noise was reasonable, you should explain that children are allowed to make a reasonable amount of noise. You can also explain that taking action against the kids would break the law. You may also explore other ways to solve the problem. Can you move the tenant who is complaining to another unit? Are there soundproofing options you can use to help reduce the noise? The worst thing you can do in this situation is to give the family a notice or decide to evict them without first figuring out what is going on. You may well find yourself facing a complaint of familial status discrimination.

Can I require that parents watch over their children at all times?
Requiring parents to supervise their children while on the property is generally not allowed except in *very* limited circumstances. Having child supervision rules may mean that families with children are not allowed to use and enjoy the property in the same way that tenants without children. You may be asking families to comply with different terms and conditions than families without children, and preventing parents from deciding what kind of oversight their children require. However, under California law, you may require all tenants under the age of 14 to be supervised by an adult at the pool.

If my tenant's child has vandalized the property over and over again despite warnings, can I evict that family without being accused of discrimination?
You do not have to allow vandalism or property damage by anyone, adult or child. The key is to treat property damage caused by a child the same way as property damage caused by an adult. As long as you treat all acts of vandalism the same no matter what the age of the person who did it is, you probably won't be breaking the law. Be sure, however, that you are not assuming that it was a child who caused the damage because "that's what kids do." Also, if a child *does* damage the property, do not react by making a rule that punishes all children. For example, if one child breaks a sprinkler, do not make a rule says that all children are not allowed to play on the grass because you are worried about more broken sprinklers. Instead, work with that child's family to try and correct the problem.

Can I decide to rent only to seniors? I wouldn't have to allow children then, right?
While it is true that that properly certified senior properties do not have to rent to families with children those properties must follow specific laws found in the federal Housing for Older Persons Act and the California Unruh Civil Rights Act. We recommend that you work with a lawyer to understand these laws before you try to make your property a senior property.

California Law Note — Home Day Cares

Can I refuse to rent to applicants who tell me that they want to open a in-home day care?
California law protects licensed home day care providers from housing discrimination. You can't refuse to rent to applicants or evict tenants who run day cares from their homes. Any lease provisions that prohibit tenants from running businesses do not apply to day cares. You can require that day cares be licensed by the state and that tenants add you to any insurance policy. Day care providers who do not have insurance must get waivers from all of their clients. These provisions protect housing providers from being liable for any injuries to children attending the day care. All in-home day cares must be licensed by the California Department of Social Services Community Care Licensing Division (CCLD). Tenants who wish to operate a licensed in-home day care are required to comply with specific notice requirements to their housing providers. However, be aware that babysitting a couple of children may not be considered providing daycare; more information about this distinction can be found at the CCLD website.

Disability Discrimination

Disability discrimination happens when housing providers treat people differently because they have a disability or because they think they have a disability.

> In California, someone is considered disabled if they have:
> a physical or mental condition that limits a major life function.

This broad definition of disability means that people do not have to be in a wheelchair to be disabled; it includes mental illness, severe asthma, dementia, and many other conditions that may not be visible. Discrimination may occur when housing providers make assumptions about people with disabilities. For example, they should not assume that people with disabilities can't care for themselves, are dangerous, or will not be able to safely live on the property.

Disability discrimination also happens when housing providers deny a disabled tenant's request for a "reasonable accommodation" or "reasonable modification" without a good reason. A "reasonable accommodation" is when disabled tenants ask for a change in a rule or a policy because they need the change to help them live on the property. For example, tenants in wheelchairs might ask to be assigned closer parking spaces to make it easier for them to get to their units. Other common requests for reasonable accommodations include requests to transfer to a different unit, for permission to keep an emotional support animal, for an early release from a lease agreement without penalty, a "second chance" after the tenant violates a rule or lease provision because of a disability, or for permission to have a live-in caretaker.

A "reasonable modification" is when disabled tenants ask for a physical change to the property necessary to help them live on the property. For example, an elderly disabled tenant who has difficulty standing might ask if he or she can install a grab bar in the shower. Other common requests for reasonable modifications include installing a ramp, widening a doorway, or lowering the kitchen counter to make it usable for someone in a wheelchair.

One important thing to understand about reasonable accommodations and reasonable modifications is that once tenants make a request, whether they ask in person or provide something in writing, housing providers must answer the request in a timely and meaningful way. This means they can't ignore the request, or wait too long to answer the request. It also means that they can't simply say "no" without explaining why or suggesting a different solution to the problem. Many housing providers get sued for discrimination simply because they did not respond to a reasonable accommodation or modification request within a reasonable period of time.

Disability: Frequently Asked Questions

How do I know that my tenants need a reasonable accommodation?
First, your tenants have to *ask* for a reasonable accommodation. You do not have to do anything until your tenants ask you to do something. However, there are no special words that your tenants must use to ask for a reasonable accommodation. If your tenants are asking you to do something differently than the way you usually do it, or to make an exception to one of your rules or lease terms, and they are asking you to do it *because of* a disability, then that is a reasonable accommodation request. Your tenants can ask for a reasonable accommodation either verbally or in writing.

Though you may find a form helpful, you may not require your tenants to make the request in any particular format. To protect yourself from liability, however, we do recommend that you keep careful written records of your interactions with your tenants regarding reasonable accommodation requests so that you will be able to show what requests were made, when you received the requests, how you responded, and when you responded.

Can I ask my tenants for any proof that they really need what they are asking for as a reasonable accommodation or modification request?
You can ask your tenants to give you a note from someone who can verify that they are disabled and also confirm that they need the accommodation to help with their disability. The note can be written by a doctor, therapist, psychiatrist, primary care physician, or even a social worker. You can ask that the note be written on letterhead and signed. If you are not sure that the person writing the note is a real health care provider, you can always check with the state licensing boards to be sure he/she is licensed.

The note does not have to tell you the details of your tenants' health situation, but it should confirm that the health care provider knows them or they are a patient, verify that they are disabled, and state that their disability will be helped in some way by the accommodation. The note does not have to tell you their exact diagnosis, and you can't ask to see their medical records or talk to their health care provider directly. As long as the note tells you that they are disabled and that whatever they want you to do would help their disability, you have all of the information you should need. If you do not understand what your tenants are asking you to do, or why, you should talk to them about your questions, or if necessary, ask them to get more specific information from their health care provider.

If you can tell that your tenants are disabled from looking at them, and it is obvious why they need the accommodation they are requesting, you should not ask them to give you additional proof of their need for the accommodation. For example, if your tenant is in a wheelchair, you should see that he or she may need a ramp or a closer parking spot without having a health care provider tell you that.

What should I do if my tenants make a reasonable accommodation or reasonable modification request?
The first step is to let your tenants know that that you have the request and are taking it under consideration. If they did not give you a note from their health care provider verifying the need for the request, and the need for it is not obvious, you can ask them to get a note. If they did give you a note, but the request isn't clear, you can ask for clarification. Remember, though, that the note only has to tell you that they are disabled and explain why they need what they are asking for. It does not have to give you detailed information about the medical condition and you must respect their right to privacy.

Once your tenants make a request, though, you have a duty to respond to the request promptly. Don't just ignore the request. Even if you have a good reason for doing what they have asked, you must work with them to try and find other ways to solve their disability-related problem. If you do not respond to them in a reasonable time, or refuse to work with them to solve their problem, you might be breaking the law. This is true even if their request is unreasonable, and you have a good reason to say no. Rather than ignoring an unreasonable request, or refusing to discuss it with them, you should tell them that you can't do what they ask, explain why, and propose another solution, if one is possible.

When can I deny a reasonable accommodation or reasonable modification request?
You may only deny requests when they are unreasonable. A request is unreasonable if it 1) poses an undue financial or administrative burden, 2) is a fundamental alteration of the services you provide, or 3) poses a health or safety issue. Whether a request is unreasonable depends on how much it will cost to grant the request, how much trouble and time it will take to do what your tenants are asking, how badly they need the accommodation, and whether you provide a similar service at the property to the one they are asking you to provide. Keep in mind that there may be some costs you will have to absorb in granting a request for reasonable accommodation because you can only deny a reasonable accommodation based on undue financial burden when the cost is ***unreasonable***. You will need to prove that the cost is unreasonable if there is discrimination complaint filed against you for failure to grant the reasonable accommodation.

When your tenants have asked you for a unit transfer, you do not have to make another tenant move out to accommodate the disabled tenants making the request. In this situation, you may want to ask other tenants to trade units voluntarily, or put the disabled tenants making the request on the top of a waiting list if there are no other units available that would meet their needs. If you are considering denying a request, save yourself some trouble and contact Project Sentinel or consult an attorney first, particularly if you have never handled a request before and need guidance.

What if I think that tenants with a disability are lying about needing an accommodation?
Some housing providers are worried that tenants will try and "scam" them with reasonable accommodation requests. Remember that you can ask your tenants for verification from a health care professional to confirm that they are disabled and need what they are asking for, and you can ask that the letter be on professional letterhead and signed. If you have doubts about the credentials of the professional signing the note, you can check with the state licensing board.

While you do not have to grant a reasonable accommodation or modification request that cannot be verified, be careful that you are not substituting your own opinion for that of the health care professional about whether the tenant is really disabled or whether he or she really needs what is being asked for. Housing providers have gotten in trouble for refusing to accept a tenant's note because they do not think the note is from the right kind of doctor or they don't believe the tenant is disabled or needs the accommodation. If your tenants give you notes on letterhead from health care providers who treat them, and they health care providers have given their opinion that your tenants need what has been asked for, it is very risky to second-guess their opinion.

One special situation you should know about is when your tenants give you a "service animal certification" or "service animal registry" card to support a request that they be allowed to keep a service animal or emotional support animal in their home. These cards or certificates may or may not have been issued by someone who has treated your tenants or is personally familiar with their disability. However, don't assume that these tenants are trying to deceive you by giving you such a card. Many tenants are led to believe that these cards satisfy fair housing requirements. If your tenants give you such a card and you would like verification of the need, you can ask for a note from a health care professional who has treated their condition.

Can I raise the rent of tenants who ask for a reasonable accommodation, given that it costs me money to comply with the accommodation?
Even though there may be some small cost to you in granting the request, this is a cost of doing business that you may not pass on to your tenants. Remember that you will not have to grant the request if the cost is unreasonable. You may not charge fees to your disabled tenants because you are concerned that their disability may cause damage to your property or cost you money. You also can't refuse to rent to applicants with disabilities because you are afraid that they will ask you for reasonable accommodations or modifications.

Do I have the right to know if my tenants have a communicable disease, or some other disability?
Unless your tenants have asked you for a reasonable accommodation or modification, you have no right to know whether they have a disability. Your tenants are entitled to privacy about their medical condition. Therefore, you may not ask whether they have a disability, or if they do, details about their condition. On the hand, you do not have to make any sort of accommodation for disabled tenants *until and unless* they ask for it.

What if I have concerns about whether applicants with disabilities can live on the property safely?
You can't refuse to rent to applicants with disabilities because you are worried that they might injure themselves and sue you. Applicants with disabilities deserve to have a choice in where they live and to live in diverse communities with non-disabled tenants. Statements such as "I don't think you can live independently" or "The second floor isn't safe for someone with a walker" deny disabled applicants that choice and discriminate against them. Let applicants decide what is safe for them. They know better than you do what they are capable of doing. Your job is to maintain your property in a safe condition; of course, you should have good general liability insurance for your property.

What if applicants tell me they have an emotional support animal and I don't allow pets?
This is a request for a reasonable accommodation, and you should treat it like any other request for a reasonable accommodation. In these scenarios, disabled applicants are asking you to make an exception to your no pet policy so that they can have an emotional support animal that a health care professional thinks will help their medical condition. Like other reasonable accommodations, you may ask applicants to provide verification from a medical professional that they are disabled and that living with the animal is helpful in treating a disability, such as depression. While the animal might look like a pet to you, an emotional support animal can be as important to the mental and physical health of a disabled person as a prescription for a drug. Any kind of animal--a dog, a cat, a bird--can qualify as an emotional support. Emotional support animals are not required to have any special training. Sometimes their value is just in providing companionship and love.

Can I change a security deposit or pet rent for a service animal or emotional support animal?
While you can charge disabled tenants with an assistance animal the same security deposit that you would charge a nondisabled tenant, you can't charge an additional security deposit for the animal or charge additional "pet rent." Even if you allow pets on your property and ordinarily charge nondisabled tenants additional security deposits and pet rent if they have pets, you may not charge disabled tenants those fees for their assistance animals. You can't charge these fees because you would be charging disabled tenants an extra amount to have the same use and enjoyment of the property as nondisabled tenants. The whole point of making a reasonable accommodation, remember, is to give disabled tenants the *same* use an enjoyment of their homes. One way to think about this is to remember that assistance animals really are NOT pets, but part of your tenants' medical treatment. However, if the animal damages the property, you can deduct any repairs you need to make from the security deposit after your tenants move out, or when the damage occurs, if that is your policy.

Can I require that my tenants only have assistance animals that are less than 25 pounds or ban specific breeds, such as pit bulls?
Rules that limit the size and breed of pets do not apply to service or emotional support animals because these requirements have nothing to do with the animal's ability to provide a medical benefit to disabled tenants. We understand that certain breeds have a general reputation as being more aggressive than others, but a breed's general reputation has nothing to do with the character and temperament of a specific animal. There are many gentle pit bulls and vicious Chihuahuas. Each animal is different, and its behavior has as much to do with its training as with its breed. If you have reason to know

that a particular animal has bitten or threatened to bite someone, or has damaged property, you may be able to keep that animal off of your property, but you can't reject the animal simply because it is a "dangerous" breed. As for size limitations, you should allow your tenants to decide on whether the unit is appropriate for the size dog that they have, and give them an opportunity to show that the animal can live in the unit responsibly and without disturbing other tenants.

Can I require my tenants to neuter or spay their assistance animals or to keep current on vaccinations?
You probably can't require your tenants to spay or neuter their assistance animal, unless there are good reasons to ask them to do this for their animal. Spaying or neutering a dog or cat might be a financial hardship for many disabled tenants and there is some debate about whether these procedures are beneficial for all animals. However, you can require that your tenants vaccinate their assistance animal, as vaccinations are a health and safety issue and are legally required. You may also require your tenants to license the animal if your city or county requires that pets be licensed.

Do I have to allow my tenants to have more than one assistance animal?
This issue usually comes up when tenants already have more than one animal that they originally have as pets, and the pets become assistance animals due to a disability that they developed or were diagnosed with. If tenants already have multiple animals, it could worsen their symptoms if you ask them to choose between their animals. It's also possible that the animals provide different services. You can ask tenants to provide a note from a health care professional to verify the need for all assistance animals.

If your tenants have one animal and ask to have a second or third animal, they will also need a note verifying why they need the additional animal and explaining why their current assistance animal does not meet their needs. For example, where people have an emotional support dog, a year later their doctor may recommend obtaining a diabetic alert dog that provides an additional service that the first dog does not. In that case, you would have to permit the second animal.

What should I do if one of my tenants' assistance dog barks all night and other tenants complain?
You never have to allow an assistance animal to disrupt the ability of other tenants to live peacefully and safely in their own homes. You should notify the disabled tenants that the assistance animal is bothering other tenants by barking throughout the night, and provide a chance to fix the problem. If your tenants are unable to stop the dog from barking all night after a reasonable time, you would be able to ask your tenants to take the dog off the property.

Do I have to allow visitors with companion or service animals on the grounds to visit tenants if I have a no pet policy?
You must permit tenants' guests to bring their assistance animals onto the property.

What should I tell my other tenants when they want to know why I allowed disabled tenants to have a dog or cat when I have a "no pet" policy?
This is a tricky situation for you, because you must be careful not to tell the other tenants that tenants with companion or service animals are disabled, or to disclose any details about their disability. Unauthorized disclosure of your tenant's disability to other tenants, in fact, is a violation of the law. We suggest that you respond to this kind of question by simply saying that you are complying with the law and can't discuss the details. Another option is to ask the tenant whether he or she is comfortable with you disclosing to other tenants that the animal is a service animal.

Can I evict my tenants for having a messy unit or too much junk in their unit?
Outside of a few select cities, California allows housing providers to evict tenants for any reason, as long as the reason is not illegal, such as because of a discriminatory reason or because of retaliation. Ordinarily, then, you could evict tenants who do not take care of the unit, live in unhealthy or unsafe conditions, or are just too messy. Tenants with an excessively messy home or who have a lot of junk may be hoarders. Hoarding can often be the result of a mental disability, and that may mean you have to treat these situations a little differently. It's best to first issue a notice requiring your tenants to clean up their home. If your tenants then come to you and explain that a disability is the cause of their hoarding, you should work with them to accommodate the disability. This may include asking them to contact local organizations that can help clean the unit or remove junk, or providing a structured plan for cleaning the home room-by-room over a period of time. Your tenants may never be able to fully clean the home, so focus on getting it cleaned up to where it is healthy and safe to live in.

Do I have to allow my tenants to have a live in caregiver? If so, can I run a credit check and criminal history check on the caregiver?
If your tenants need a live-in caregiver because of their disability, then you must allow your tenants to have one. Your tenants generally can choose their own live-in caregiver, and it can sometimes be a relative. The caregiver is not a tenant, though, and is not responsible for paying rent and does not have the rights of a tenant. As a result, you may not screen the caregiver for credit or demand that the caregiver be added to the lease agreement. However, you may run a criminal history check on the caregiver if you run such checks on all applicants. Caregivers must follow any rules you have on the property, such as those restricting parking and limiting noise.

Must I allow disabled tenants to have a cosigner?
While you can decide that you do not want to accept a cosigner for tenants as a general policy, you may be required, if asked, to waive that policy for disabled tenants as a reasonable accommodation. If your tenants can show that their income is limited due to having a disability, and they ask you to accept a cosigner in order to qualify to rent the unit, then you must permit one. You can require the applicant and cosigner meet your minimum income and credit requirements.

My tenants receive a monthly disability check, but it doesn't arrive until the third of the month. Do I have to move their rent due date?
Disability checks often don't arrive by the first of the month. Some persons with disabilities also have their checks issued to a person known as a representative payee, who is responsible for ensuring that their rent gets paid. If your tenants or payees ask, you may be required to move the rent due date to coincide with the date your tenants receive the disability check, or the date on which the payees are able to issue the rent check. You can't charge tenants late fees in these circumstances.

If I gave my tenants a valid termination of tenancy notice, can they ask to stay longer as a reasonable accommodation?
Your tenants' disability may make it difficult to relocate within the usual 30, 60, or 90 days provided by a termination notice. For instance, a tenant may have critical surgery scheduled that will confine him or her to a bed during the time that could be spent looking for a new place to live, or a tenant with a mobility disability may have difficulty packing belongings, or finding a unit with an elevator or on the first floor. The urgency and stress of a housing search may lead to a worsening of your tenants' mental health condition.

As with any reasonable accommodation, you may ask your tenants making this request to provide a note from a health care professional verifying that the disability means that they need more time to find a new place to live or move. There is no set time for how much longer you must allow your tenants to remain. It depends on the disability, the length of the original notice, and why you are asking your tenants to leave. You and your tenants should work together to come up with an appropriate timeframe.

What should I do if disabled tenants ask for help in taking out the trash once a week?
You do not have to remove the trash from your tenants' home if doing so is not something you normally do for the other tenants who live on the property. This would be considered a fundamental alteration of your services. However, there may be other things you can do to accommodate your tenants' disability other than physically removing trash from the unit. For example, if there are physical barriers that make it hard for them to remove their own trash, you may be required to accommodate the disability by removing the barriers.

What if my tenants ask me to install grab rails in the bathroom or make other changes to the unit because of a disability?
Tenants who ask you to do these things have asked you for a reasonable modification. Like a reasonable accommodation, you can ask your tenants for a supporting note from a health care professional if their need for these changes is not obvious. If your tenants provide you with a note, you are probably required to allow your tenants to make these changes. One important difference between reasonable accommodations and reasonable modifications is that your tenants are responsible for the cost of

making these modifications. If your tenants assume the cost, you must allow them to do it. You may also require that your tenants make any modifications according to local building code and use a person who is competent to do the work. You may not charge an extra security deposit or require your tenants to obtain any liability insurance related to the proposed modifications, and you can't refuse to continue to rent to them because you do not want them to make modifications to your unit.

Note: Housing providers who are recipients of federal funding are required to bear the cost of making reasonable modifications for tenants. Recipients of federal funding do not include housing providers who accept Housing Choice Vouchers (Section 8) issued by public housing authorities.

If my tenants installed grab bars in the bathroom when they moved in, can I require that they be removed upon move-out?

Tenants only have to remove modifications when they move out if it is reasonable to do so. In general, this means that if the modifications would not affect the ability of the next tenant who moves onto the property to use or enjoy the property, you can't make the disabled tenants remove the modifications. For example, a tenant who lowers the kitchen counters would need to restore them to the original height, as counters that are a good height for someone in a wheelchair would be too low for someone to use who is not in a wheelchair. In contrast, a disabled tenant would not have to remove a grab bar installed in the bathroom because it would not make the bathroom more difficult to use for the next tenant.

Religion: Frequently Asked Questions

Religious discrimination is illegal. While fair housing laws do not require housing providers to change rules or structures because of tenants' religious belief or practices, they are not allowed to express preferences for one religious group over another. The laws prohibiting religious discrimination do not apply to not-for-profit religious organizations that own or operate housing for non-commercial purposes.

For religious reasons, one of my tenants asked my maintenance person to take off his shoes when doing work in his unit. Does the maintenance man have to do what my tenant asks?

You do not have to change the way you normally do things to accommodate the religious beliefs of your tenants. The key is to be sure that you do not treat tenants differently based on their religious beliefs and customs. If your maintenance man does not take off his shoes when he does work in the homes of other tenants, he does not have to do it for this tenant either.

Can I put holiday decorations in the lobby of my property?

Some court cases say that as long as the decorations are not religious decorations, property owners can place them in common areas. For example, court cases generally say that nativity scenes, crucifixes, and Stars of David are religious symbols and you should avoid them. In contrast, the court cases generally say that Christmas trees, Santa Claus, Easter eggs, rabbits, and Valentine's Day hearts are generally considered non-religious symbols. However, when decorating your lobby or other common areas during various holidays, be thoughtful. You don't want any of your tenants who may have a different religion from you or other tenants to feel unwelcome.

My tenants want to decorate their doors and windows for the holiday. Should I let them?

You can have rules that prohibit any and all decorations, but you can't single out religious decorations. For example, a rule can say that tenants are not allowed to place any items on their doors, such as welcome signs. In that case, you do not have to allow tenants to place a wreath on their door during the holidays. However you can't have rules saying that only religious decorations are not allowed. Your policy must be neutral and apply to all decorations throughout the entire year.

I am a Christian. I hope that my rental property can be a place where people of faith come together, can live with people of the same faith, and share their love of God. Can I hold bible studies on the property or request that my tenants participate in faith-based activities?

While you might feel strongly about your religious beliefs, and would like to share them with your tenants, you can't prefer tenants who share your same faith or only rent to people with the same religion as you. While you could host a religious study on your property, be careful not to force tenants to participate, or favor tenants who participate over tenants who do not want to.

Sex Discrimination

Sex discrimination means many things. It means that housing providers can't prefer men over women or vice versa. It is also illegal for housing providers or their employees to sexually harass tenants, or allow one tenant to sexually harass another. Sex discrimination also includes discrimination against victims of domestic violence.

Sex Discrimination: Frequently Asked Questions

What is sexual harassment?
Sexual harassment happens when a housing provider or an employee of the housing provider requires a tenant to provide sex in exchange for renting to a tenant, or instead of rent. Sexual harassment also occurs when a housing provider makes unwelcome sexual advances, including lewd and sexist comments and unwanted touching. It is illegal for property owners, managers, and maintenance staff to sexually harass a tenant. Sexual harassment can happen when a man harasses a woman, a woman harasses a man, or a man or woman harass someone of the same gender.

California Law Note — Domestic Violence

The police were called to my property and my tenant's husband was arrested for domestic violence. What should I do?
Tenants who are the victims of domestic violence have specific rights in California that you should be aware of. Specifically:

- You can't evict your tenant because domestic violence occurred on your property if the abuser is no longer there. If the abuser lives in the home, you can evict the abuser. You can also require that the abuser stay away from the property.
- If the victim asks to get out of his or her lease, you must release the victim without
- penalty. The victim must prove that he or she is the victim of domestic violence (through a doctor's letter, a police report, or a restraining order), and the victim must give you written 30 day notice. If the abuser is also on the lease, you can continue to hold him or her responsible for the rent until the end of the lease.
- You must also change the locks or allow your tenant to change the locks within 24 hours if asked. You can require that your tenant first provide you with a copy of a police report or court order showing that he or she was a victim of domestic violence.

California Law Note

Sexual Orientation, and Gender Identity Discrimination

In California, it is illegal to discriminate against people because of their sexual orientation or sexual identity. This means that housing providers can't treat applicants or tenants differently because they don't look, dress or behave the way you think people of that gender should look, dress, or behave. For instance, they can't discriminate against a man because they think he acts too feminine, or discriminate against a woman because she dresses like a man. It also means that they can't treat people differently because they are gay, lesbian, bisexual, or transgender.

Being gay and transgender, as well as same-sex marriage, are against my religion. Does the law still apply to me?
You may not discriminate on the basis of sexual orientation or gender identity even if it is against your religious beliefs. As a housing provider who rents to the general public, you are running a business, and you must conduct that business according to the law.

How should I refer to my transgender tenants?
If you are not sure what pronoun (he or she) persons who are transgender prefer, you can simply use their name. If you deliberately refer to them by a name and gender pronoun other than what they have indicated they prefer, it could be viewed as harassment.

What should I do if one of my other tenants tells me that he or she doesn't want to live next to a gay or transgender person?
While other tenants may have moral or religious objections to persons who or gay or transgender, it isn't up to your tenants to decide who can live on your property – especially if they are objecting to another tenant because of a protected trait. You should inform your tenant that it is illegal to discriminate against persons because of sexual orientation and gender identity, and that you won't tolerate such behavior on your property. If you learn that your tenant is in any way harassing your gay or transgender tenant, you must take swift action to stop the harassment.

California Law Note

Source of Income Discrimination

In California, discrimination against applicants or tenants based on their source of income is illegal. Source of income refers to how people earns their money, including what type of job they have and/or if they receive any public benefits like welfare, or disability income. It includes any money paid to tenants or their representative. Income does not include money that you reasonably believe has been obtained by illegal means, such as selling drugs. Source of income discrimination occurs when housing providers treat people differently because of where their money comes from. For example, they can't refuse to rent to applicants or treat tenants differently because they receive Social Security or other state benefits instead of working. They can, however, decide how much income applicants must have to qualify to rent the unit - they just can't demand that the money they use to pay the rent comes from a job or any other specific source. As long as tenants have enough money coming in from a reliable and legal source to afford the rent, it does not matter where the money comes from.

Source of Income: Frequently Asked Questions

Can I require that applicants earn two and a half or three times the rent?
You are allowed to have minimum income requirements as long as you apply them equally to all applicants. What you can't do is demand that the income come from a job, as opposed to some other reliable source, such as a pension or Social Security benefits. You should also try to apply the same income standards consistently to all applicants, although that does not prevent you from making exceptions from time to time for special circumstances.

Can I just rent to the applicant who has the highest income?
Generally, you can select the applicant with the highest income. However, it's best to look at the whole application, not just what someone earns. Someone can earn a lot of money, but have a terrible credit record, or have a history of poor compliance with tenant agreements.

California Law Note

Source of Income: Frequently Asked Questions, Continued...

Can I require that applicants have a job?
Although you can require that your tenants receive or can access a minimum amount of money every month to be sure they can afford to pay the rent, you can't require that applicants have a job because this would be preferring one source of income over another. They may have other ways of paying the rent besides having a job. They may have a pension, receive Social Security benefits, have a trust fund, or even just significant savings. All of these are verifiable sources of income that can be perfectly reliable ways of paying rent, and in some cases may actually be more secure than income from a job. Requiring applicants to have a job could also be considered discrimination against people with disabilities.

Can I prefer applicants who have certain types of jobs or require that they be employed by the same employer for a certain period of time?
You can't prefer one occupation to another. This means that you can't prefer to rent to technology workers or professionals instead of people with traditional blue-collar jobs. All you should be concerned about is whether the money coming in from whatever job or other source meets your minimum qualifications.

California Law Note

Marital Status Discrimination

Marital status refers to whether or not someone is married, in a domestic partnership, single, divorced, or separated. Put simply, in California, housing providers can't have a preference for couples who are married over other types of relationships. The law also prohibits treating groups of roommates differently from married couples.

Marital Status: Frequently Asked Questions

Can I prefer to rent to married couples because they are more stable?
Preferring married couples for any reason would be discriminatory. There are also plenty of unmarried couples and groups of roommates that are just as financially stable as married couples or who intend to live together on a long-term basis.

According to my religious beliefs, I do not believe that unmarried couples should live together. Don't I have a right to exercise my religious beliefs and rent only to married couples?
You must obey fair housing laws even if you have a religious objection to the way applicants live their lives. You can't discriminate on the basis of marital status even if your religion teaches you that cohabitation before marriage is wrong. Your personal religious beliefs do not exempt you from complying with the laws that apply to all businesses, including the business of renting property.

Do I have to apply my income rules the same way to married couples and unmarried roommates? I am worried that with unmarried roommates, one person will move out and the rest of the roommates won't be able to afford the rent.
You must treat married couples and unmarried or unrelated roommates the same way. If you ordinarily require that a married couple earn a combined three times the rent in monthly income, you can't require that each unmarried roommate separately earn three times the rent. Any income requirement should be applied to the total household, regardless of marital status or the relationship between the tenants. Although housing providers are sometimes worried that one or more roommates might move out and leave the others to pay the rent, there is no guarantee that a married couple won't divorce and create the same situation. In any event, all of the tenants on the lease, married or not, are legally responsible for the rent, and it is their problem to solve if it should ever arise.

California Law Note

Marital Status: Frequently Asked Questions, Continued...

Can I terminate a lease because my tenants are divorcing and I don't think the remaining tenant can afford the rent?

If you would terminate the lease of a group of roommates or unmarried couple when one moves out, you may do the same to the remaining spouse. If you have a policy that requires the remaining tenants to prove they still meet your financial criteria, you can also require the remaining spouse to show that he or she meets your financial criteria. The key is to treat all households equally regardless of whether the occupants of the household are married or are just unrelated roommates.

California Law Note

Age Discrimination

California's ban on age discrimination in housing applies to persons of *all* ages, not just those over a certain age. It is illegal to discriminate against persons because they are young, old or middle aged. Housing providers can't prefer younger tenants, or older tenants, or tenants of a certain age group. They also can't treat tenants differently, or make assumptions about their ability to pay or be good tenants because of their age.

Age: Frequently Asked Questions

What if I become concerned that my elderly tenants can no longer live alone in their apartment safely? Can I ask them to leave?
This question touches on both age discrimination and disability discrimination. Though your intentions may be good, it is ultimately not up to you whether your elderly tenants can live alone safely. However, if your elderly tenants are doing things that put the health or safety of other tenants at risk, you may raise these problems with them and work with them to stop or change the dangerous behaviors. In some cases, if your tenants ask for it, you may need to make a reasonable accommodation to solve the problem.

Families with children are a protected group. Does that mean I can prefer to rent to families with children?
Although you may affirmatively welcome families with children to your property, you can't prefer them to adult-only households or seniors. This would be akin to preferring younger tenants to older tenants, and would be age discrimination under California law.

An elderly man applied to live in one of my apartments. I'm afraid he is going to die in the unit and then I will have to disclose the death to the next tenant. Can I refuse to rent to him?
It is true that California law requires you to disclose that a prior tenant died in the unit within the past three years. However, you can't refuse to rent to elderly applicants or evict elderly tenants because you are afraid of having to make this disclosure. This would be age discrimination. It may also be disability discrimination if you believe elderly individuals will die because they have an illness or appear sick.

California Law Note

Arbitrary Discrimination

The law against arbitrary discrimination is unique to California and is intended to be a catch all category. The law prohibits discrimination based on those personal characteristics that have no relation to a person's ability to be a good tenant. For example, it is illegal to refuse to rent to someone because of tattoos or particular political beliefs. Housing providers also can't prefer to rent to applicants from a specific geographical region. Discrimination based on personal appearance and membership in a group is also prohibited.

This category is understandably confusing. However, the key is to treat all applicants equally and to have rental criteria that objectively demonstrate whether applicants have the ability to be financially and personally responsible. Avoid stereotypes, irrelevant characteristics and keep an open mind.