

DFEH Housing Information on COVID-19



FAQ

A pandemic of respiratory illness caused by a new coronavirus (COVID-19) has been identified in California and the United States. On March 4, 2020, Governor Newsom proclaimed a state of emergency in California.

Housing providers should review health and safety procedures to help prevent exposure to the virus, and should ensure that unlawful housing discrimination does not occur in California.

California civil rights laws prohibit housing discrimination and harassment, including during a pandemic. In addition, Governor Newsom has signed Executive Order N-37-20, prohibiting the enforcement of any eviction for nonpayment of rent related to COVID-19 through May 31, 2020. Many local jurisdictions have imposed further restrictions on the ability of landlords to evict tenants during this emergency.

■ **The law prohibits all discrimination and harassment against tenants, both current and prospective, because of race or national origin at all times.**

It is unlawful under the Fair Employment and Housing Act for a housing provider to discriminate against or treat a tenant less favorably than another tenant because of the tenant's race or national origin. National origin includes geographic places of origin, ethnic groups, and tribal affiliations. For example, it is unlawful for a housing provider to: refuse to rent, segregate, or provide less favorable terms because of a tenant's actual or perceived race or national origin, or because of their association (including marriage or co-habitation) with someone based on race or national origin.

Harassment based on race or national origin is always unlawful. In addition, housing providers must take reasonable steps to prevent and promptly correct discriminatory and harassing conduct at the property even if the harasser is another tenant. When the housing provider knows or should know of the discriminatory harassment and where the housing provider has the power to prevent, mitigate, or end the unlawful conduct (for example, under the terms of a lease or homeowners' association rules), housing providers must act to ensure tenants are not harassed by other tenants.

■ **The law prohibits all discrimination and harassment against tenants, both current and prospective, because of actual or perceived disability.**

It is unlawful under the Fair Employment and Housing Act for a housing provider to discriminate against or treat a tenant less favorably than another tenant because of the tenant's actual or perceived disability. A disability is a condition that causes a limitation to a major life activity and includes both physical disabilities and mental disabilities (including mental health conditions). COVID-19 can lead to disability, especially if it results in inpatient care, continuing medical treatment, or supervision by a health care provider. COVID-19 may also lead to disability if it leads to conditions such as pneumonia. While all Californians should follow the most current local, state, and federal public health recommendations, it is unlawful for a housing provider to refuse to rent, segregate, or provide less favorable terms because of a tenant's actual or perceived disability related to COVID-19.

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■ **The law prohibits housing providers from making inquiries about a tenant's actual or perceived disability.**

It is unlawful under the Fair Employment and Housing Act for a housing provider to ask any tenant about the tenant's actual or perceived disability, including a disability related to COVID-19. Similarly, a housing provider may not (1) require a tenant to move out because the housing provider believes the tenant has a disability related to COVID-19, or (2) require a tenant to show proof that their disability is unrelated to COVID-19.

■ **Do housing providers have to make repairs to a tenant's unit during the COVID-19 pandemic?**

Yes, housing providers must comply with the Health and Safety Code to ensure rental units comply with the law. However, housing providers should use judgment and follow public health orders and recommendations in making repairs to protect their employees and tenants from exposure to COVID-19. Tenants must follow public health orders and recommendations, including those to maintain physical distancing, when cooperating with the housing provider during repairs.

■ **Housing providers may not discriminate against tenants on the basis of age, even if the housing provider has a benevolent motivation during the COVID-19 pandemic.**

It is unlawful to discriminate against a tenant on the basis of age by refusing to rent, providing less favorable terms, segregating, or harassing a tenant even if the housing provider is attempting to be helpful due to the pandemic. For example, absent a public health order, it is unlawful to single out older tenants by segregating them based on their age in one area of the rental property, or refusing only older tenants access to common areas, even if the housing provider is concerned about their health. Landlords may, however, require all tenants to abide by local, state, and federal public health orders.

■ **During a pandemic, may a housing provider close recreational facilities to prevent the spread of COVID-19?**

Yes, housing providers should follow local, state, and federal public health orders and recommendations, which may require the closing of recreational facilities, including gyms, pools, and clubhouses, to prevent the spread of COVID-19. In following such orders or recommendations, housing provider must treat all tenants in the same way. It is unlawful to grant or restrict access to facilities based on any protected status, including disability, race, national origin, or age.

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- **Must housing providers grant reasonable accommodations to persons with disabilities who require in-home supportive services such as the assistance of a family member, friend, or health care provider when necessary to provide care due to the effects of COVID-19?**

Housing providers must grant reasonable accommodations where necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling unit and public and common use areas, unless providing the requested accommodation would constitute an undue financial and administrative burden, a fundamental alteration of the program, or if allowing the accommodation would constitute a direct threat to the health and safety of others or would cause substantial physical damage to the property of others.

Reasonable accommodations include changes to rules, policies, or procedures of the housing provider where necessary to afford the tenant with the disability the equal opportunity and enjoyment of the premises. For example, it would be a reasonable accommodation for a housing provider to waive a rule against overnight guests to accommodate a tenant's request to have a family member, friend, or health care provider stay at the rental unit to care for the tenant because of a disability related to COVID-19.

- **If a tenant requests a reasonable accommodation for a pandemic-related disability, are they required to provide verification that they are disabled and that a reasonable accommodation is necessary?**

Housing providers may not request additional information about an individual's disability or need for an accommodation if the individual (or their representative) provides reliable information about the disability and how the requested accommodation is necessary.

Generally, if the need for the accommodation is not readily apparent, then the housing provider can ask for information describing the needed accommodation and how it is necessary to allow the individual equal opportunity to use and enjoy the dwelling. This information can come from the individual or any reliable third party who is in a position to know about the individual's disability or the need for the requested accommodation, including medical professionals, health care workers, support groups, or caregivers.

In a pandemic, it is not typically practical for a tenant to provide verification of a disability and the necessity of a specific accommodation from medical professionals or health care workers who are working to address urgent patient needs. Housing providers must treat as confidential any verification information. It may not be disclosed to other tenants.

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- **What should a housing provider do if they become aware other tenants are intimidating, harassing, committing or threatening acts of violence and vandalism against another tenant because of race, national origin, disability or other protected characteristic?**

A housing provider must correct and end discriminatory conduct committed by one tenant against another tenant because of their protected status (including race, national origin, or disability) where the housing provider has the power to do so (for example, under the terms of a lease or homeowners' association rules). This action may include contacting law enforcement to address violence, credible threats of violence, vandalism, or other crimes.

If you think you have been a victim of housing discrimination, please contact DFEH.

If you have a disability that requires a reasonable accommodation, DFEH can assist you by scribing your intake by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or you can contact us below.

TO FILE A COMPLAINT

Department of Fair Employment and Housing

dfeh.ca.gov

Toll Free: 800.884.1684

TTY: 800.700.2320