



Civil Rights
Department
STATE OF CALIFORNIA

Source of Income Discrimination in California

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CRD Disclaimer

This guidance is for informational purposes only, does not establish substantive policy or rights, and does not constitute legal advice. The opinions expressed by the presenters do not necessarily reflect the opinions of CRD.

Mission

The mission of the Civil Rights Department (CRD) is to protect the people of California from unlawful discrimination in employment, housing, businesses, and state-funded and administered programs/activities, as well as from hate violence and human trafficking.

Effective July 1, 2022, we have changed our name from the Department of Fair Employment and Housing to the Civil Rights Department. This name change better encompasses our full scope of responsibilities.

CRD Responsibilities

- Investigate discrimination complaints and cases of systemic discrimination.
- Facilitate mediation and resolution of disputes involving civil rights.
- Enforce the laws by prosecuting violations in civil court.
- Issue regulations that implement the FEHA and other statutes to provide greater clarity.
- Engage in outreach and provide training and resources to the public, employers, business establishments, housing providers, and others regarding California civil rights law.

Source of Income Discrimination Protections

Fair Employment and Housing Act (See Gov. Code, § 12955) – prohibits housing discrimination, harassment, and retaliation based on “source of income.”

2020: California legislature enacted SB 329 which added section 8 and other government funded housing assistance to FEHA’s protections against source of income discrimination. (See Gov. Code, § 12955, subd. (p)(1) [SB 329 expanded definition of “source of income.”].)

2022: Regulations implementing FEHA’s source of income protections went into effect. (See Cal. Code Regs, tit. 2, § § 12140-12143.)

What is “source of income?”

The regulations define “Source of income” to mean income that is:

- paid directly to a tenant (Includes public benefits like SSI)
- paid to a representative of a tenant (such as a representative payee)
- paid to a housing owner or landlord on behalf of a tenant
 - Includes section 8 vouchers or any other rental assistance.
- This means that a housing provider cannot discriminate against a tenant based on how they will be paying for their rent.
- But can still lawfully screen tenants for credit, criminal history (with some limitations), income level

(Cal. Code Regs., tit. 2, § 12140.)

Examples of SOI Discrimination

- Advertisements that state “No Section 8”, “No Public Assistance,” “No HUD,” etc.
- Evicting a tenant who has already been admitted because they receive a voucher and plan to use it to pay rent going forward
- Imposing different insurance requirements for properties with tenants that use housing assistance
- Refusing to comply with requirements of public assistance, such as completing necessary paperwork or not providing necessary documentation
- Refusing to renew a section 8 lease

What about Minimum Income Requirements?

If the landlord requires a minimum income that is a multiple of the monthly rent and the tenant will be using a housing subsidy to cover part of the rent, the landlord can only consider the tenant's portion of the rent when calculating the minimum income. (Cal. Code Regs., tit. 2, § 12143.)

Example: Raul applies to rent an apartment with a monthly rent of \$2000. The housing provider has a policy to only accept tenants who earn three times the monthly rent. Raul's portion of the rent is \$200 and the voucher will cover the rest. The housing provider can only consider if Raul earns three times his portion of the monthly rent which would be \$600.

What is CRD doing to enforce SOI protections?

- Taking and investigating complaints
- Filing and mediating cases
- Fair housing testing
- Discriminatory ads program

CRD v. Torres

Intersection of Source of Income and Race and Disability Discrimination

CRD filed a lawsuit against two Sacramento landlords, for unlawfully discriminating against a tenant based on the tenant's source of income, race, and disability and for retaliating, harassing, and threatening violence when the tenant attempted to assert her rights. Facts:

- Landlords were demanding illegal side payments and when tenant said would no longer make them they told her they would no longer accept section 8
- they also harassed and retaliated against her based on source of income and race, threatened to evict her by illegal means, threatened violence, and unlawfully locked her out of her home and she lost many of her belongings
- Also refused requests for reasonable modifications

Discriminatory Ads Program

- CRD uses technology to search apartment listing for evidence of SOI discrimination. If discrimination is found, CRD sends a letter demanding the ad be taken down with information on source of income protections under California law.
- Members of the public can report discriminatory ads here: <https://appsandads.calcivilrights.ca.gov/s/>



★ Mar 9 *****MUST SEE TO BELIEVE*****
3BR/2.5BA Townhouse *NO PETS* *NO SECTION 8* \$2800 / 3br - 1500ft² -



Best Property
 4 BEDS 3½ BATHS \$2,800 RENT / MONTH
 ★ Mar 9 **Brand New Home! No Section 8.**
 \$2800 / 4br - 2961ft² - (brentwood / oakley)
 ⓧ



Best Property
 3 BEDS 1½ BATHS \$1,700 RENT / MONTH
 ★ Mar 8 **Charming Brentwood Duplex! No Section 8** \$1700 / 3br - 1091ft² - (brentwood / oakley) ⓧ



CRD Resources



"YES, SECTION 8!" RENTAL ASSISTANCE AND HOUSING VOUCHERS ARE NOW PROTECTED FROM DISCRIMINATION! BEGINNING JANUARY 1, 2020, LANDLORDS AND HOUSING PROVIDERS CANNOT TURN YOU AWAY BECAUSE YOU ARE RECEIVING RENTAL ASSISTANCE OR A VOUCHER.¹

If you think you have been a victim of housing discrimination based on a protected class including source of income, file a complaint.

TO FILE A COMPLAINT

Department of Fair Employment and Housing
dfeh.ca.gov
Toll Free: 800.884.1684
TFR: 800.706.2920

¹ This includes housing assistance from any federal, state, or local housing benefit or subsidy program, or any financial aid that provides rental assistance, security deposit assistance, or a housing subsidy. Additional forms of housing subsidies may include VASH, Homelessness Prevention and Rapid Re-Housing Program, HUD's Housing Opportunities with AIDS, Security Deposit Assistance Programs, and others.

6 THINGS YOU NEED TO KNOW

1. Landlords and housing providers cannot advertise or state a preference for tenants with certain sources of income. For example, "No section 8, there is a wait list for people with vouchers or programs."
2. Landlords and housing providers cannot refuse an application from you, charge a higher deposit or rent, or treat you differently in any other way based on the use of a section 8 voucher or other housing subsidy.
3. Your landlord cannot refuse or delay making repairs to your home (apartment or residence) because you pay rent with a form of public or housing assistance.
4. Landlords and housing providers cannot refuse to enter into or renew a lease because you use a section 8 housing voucher or other housing subsidy. For example, "It's not taking section 8 for your unit, you need to move."
5. Landlords and housing providers cannot interrupt or terminate any tenancy because you are using or plan to use a section 8 voucher or other housing subsidy.
6. If you are using rental assistance or a section 8 voucher, the housing provider is only allowed to consider your portion of the rent when deciding to rent to you. If a landlord or housing provider uses a financial or income standard that is not solely based on the portion of rent to be paid by you, then the housing provider has committed an unlawful discriminatory housing practice.

You have the right to be free from harassing, discriminatory, or threatening behavior or comments that are made based on your source of income, including from other tenants.

<https://calcivilrights.ca.gov/Publications/>

Thank you!

For more information, please contact CRD:

calcivilrights.ca.gov

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Toll Free: (800) 884-1684

TTY: (800) 700-2320

California Relay Service 711

Fair Housing: A Closer Look

Fair Housing Advocates of Northern California



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Source of Income (SOI) Housing Discrimination – Background

- 20 state/80 local human rights laws include SOI protections
- Texas and Oregon state laws bar local SOI laws
- Wisconsin SOI law does not include rental vouchers
- One million Section 8 households covered by laws
- Only 50% of laws include a private right of action

Urban Institute Study of SOI Discrimination

- 5 metro areas, including Los Angeles (no CA state law at time of study)
- Vouchers overtly denied in 70-80% of phone call tests in cities with no state SOI law
- Lower denial rates at 20-30% if State SOI
- No data collected on rate of more subtle forms of SOI discrimination

Types of Source of Income Discrimination

- Overt Denials (First Generation)
 - Refusal to rent to applicants with vouchers, refuse to show apartments, provide applications, negotiate to rent
 - Refusal to accept rental vouchers from current tenant
 - Discriminatory advertising and statements

Types of Source of Income Discrimination (con't)

- Differential Treatment (Second Generation)
 - Steering prospective renters with vouchers away from available units
 - Imposing less favorable terms and conditions on renters with vouchers, such as requiring placement on waiting list and requiring full application with fee before showing available units

Types of Source of Income Discrimination (con't)

- Disparate Impact of Neutral Policies (Second Generation)
 - Mandating rent insurance
 - Apartment hold deposits
 - Minimum income requirements

Remedies for Source of income Discrimination

- Preliminary Injunction
- Equitable Relief
 - Future rent credit
 - Waive security deposit and other fees
 - Hold unit available for inspection and agency approval
 - Agree not to increase rent above rent payment standards as long as Plaintiff is a tenant

Remedies for Source of income Discrimination (con't)

- Monetary Damages
 - Emotional distress
 - Lost housing opportunity
- Attorney's Fees