

## **Resource List**

### **San Diego County**

Center for Social Advocacy  
277 East Lexington Ave.  
El Cajon, CA 92020  
619-444-5700  
[www.c4sa.org](http://www.c4sa.org)

Legal Aid Society of San Diego  
110 South Euclid Ave.  
San Diego, CA 92114  
877-534-2524  
[www.lassd.org](http://www.lassd.org)

Tenants Legal Center  
5252 Balboa Ave. Suite 408  
San Diego, CA 92117  
858-571-7100  
[www.tenantslegalcenter.com](http://www.tenantslegalcenter.com)

### **California**

<http://www.dca.ca.gov/publications/landlordbook/catenant.pdf>

<https://www.dca.ca.gov/dca/publications/landlordbook/index.shtml>

Legal Aid Hotline 844-449-3500

## Examples of Unlawful Discrimination

Unlawful housing discrimination can take a variety of forms. Under California's Fair Employment and Housing Act and Unruh Civil Rights Act, it is unlawful for a landlord, managing agent, real estate broker, or salesperson to discriminate against any person because of the person's race, color, religion, sex (including pregnancy, childbirth or medical conditions related to them, as well as gender and perception of gender), sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, medical condition, or age in any of the following ways:

- Refusing to sell, rent, or lease.
- Refusing to negotiate for a sale, rental, or lease.
- Representing that housing is not available for inspection, sale, or rental when it is, in fact, available.
- Otherwise denying or withholding housing accommodations.
- Providing inferior housing terms, conditions, privileges, facilities, or services.
- Harassing a person in connection with housing accommodations.
- Canceling or terminating a sale or rental agreement.
- Providing segregated or separated housing accommodations.
- Refusing to permit a person with a disability, at the person with a disability's own expense, to make reasonable modifications to a rental unit that are necessary to allow the person with a disability "full enjoyment of the premises." As a condition of making the modifications, the landlord may require the person with a disability to enter into an agreement to restore the interior of the rental unit to its previous condition at the end of the tenancy (excluding reasonable wear and tear).
- Refusing to make reasonable accommodations in rules, policies, practices, or services when necessary to allow a person with a disability "equal opportunity to use and enjoy a dwelling" (for example, refusing to allow a person with a disability's companion or service dog).<sup>38</sup>

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<sup>38</sup> Government Code Sections 12926(p), 12927(c)(1),(e), 12948, 12955(d); Civil Code Sections 51, 51.2, 55.1(b). See Moskowitz et al., *California Landlord-Tenant Practice*, Section 2.27 (Cal. Cont. Ed. Bar 2011).

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- Is any part of the holding deposit refundable if you change your mind about renting? As a general rule, if you change your mind, the landlord can keep some—and perhaps all—of your holding deposit. The amount that the landlord can keep depends on the costs that the landlord has incurred because you changed your mind—for example, additional advertising costs and lost rent.

You may also lose your deposit even if the reason you can't rent is not your fault—for example, if you lose your job and cannot afford the rental unit.

If you and the landlord agree that all or part of the deposit will be refunded to you in the event that you change your mind or can't move in, make sure that the written receipt clearly states your agreement.

A holding deposit merely guarantees that the landlord will not rent the unit to another person for a stated period of time. The holding deposit doesn't give the tenant the right to move into the rental unit. The tenant must first pay the first month's rent and all other required deposits within the holding period. Otherwise, the landlord can rent the unit to another person and keep all or part of the holding deposit.

Suppose that the landlord rents to somebody else during the period for which you've paid a holding deposit, and you are still willing and able to move in. The landlord should, at a minimum, return the entire holding deposit to you. You

may also want to talk with an attorney, legal aid organization, tenant-landlord program, or housing clinic about whether the landlord may be responsible for other costs that you may incur because of the loss of the rental unit.

If you give the landlord a holding deposit when you submit the rental application, but the landlord does not accept you as a tenant, the landlord must return your entire holding deposit to you.

## UNLAWFUL DISCRIMINATION

### What is unlawful discrimination?

A landlord cannot refuse to rent to a tenant, or engage in any other type of **discrimination**, on the basis of group characteristics specified by law that are not closely related to the landlord's business needs.<sup>35</sup> Race and religion are examples of group characteristics specified by law. Arbitrary discrimination on the basis of any personal characteristic such as those listed under this heading also is prohibited.<sup>36</sup> Indeed, the California Legislature has declared that the opportunity to seek, obtain and hold housing without unlawful discrimination is a civil right.<sup>37</sup>

Under California law, it is unlawful for a landlord, managing agent, real estate broker, or salesperson to discriminate against a person or harass a person because of the person's race, color, religion, sex (including pregnancy, childbirth or medical conditions related to them, as well as gender and perception of gender), sexual orientation, marital status, national origin, ancestry, familial status, source of income,

*Continued on page 13*

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35 For example, the landlord may properly require that a prospective tenant have an acceptable credit history and be able to pay the rent and security deposit, and have verifiable credit references and a good history of paying rent on time. (See Portman and Brown, *California Tenants' Rights*, pages 104, 106 (Nolo Press 2010).)

36 *California Practice Guide, Landlord-Tenant, Paragraph 2:553.15* (Rutter Group 2011), citing *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142 [278 Cal.Rptr. 614].

37 *Government Code Section 12921(b)*.

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or disability.<sup>39</sup> California law also prohibits discrimination based on any of the following:

- A person's medical condition or mental or physical disability; or
- Personal characteristics, such as a person's physical appearance or sexual orientation that are not related to the responsibilities of a tenant;<sup>40</sup> or
- A perception of a person's race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability or medical condition, or a perception that a person is associated with another person who may have any of these characteristics.<sup>41</sup>

Under California law, a landlord cannot use a different financial or income standard for persons who will be living together and combining their incomes than standard used for married persons who combine their incomes. In the case of a government rent subsidy, a landlord who is assessing a potential tenant's eligibility for a rental unit must use a financial or income standard that is based on the portion of rent that the tenant would pay.<sup>42</sup> A landlord cannot apply rules, regulations or policies to unmarried couples who are registered domestic partners

that do not apply to married couples.<sup>43</sup> Nor can a landlord inquire as to the immigration status of the tenant or prospective tenant or require that a tenant or prospective tenant make any statement concerning his or her immigration or citizenship status.<sup>44</sup> However, a landlord can request information or documents in order to verify an applicant's identity and financial qualifications.<sup>45</sup>

It is illegal for landlords to discriminate against families with children under 18. However, housing for senior citizens may exclude families with children. "Housing for senior citizens" includes housing that is occupied only by persons who are at least age 62, or housing that is operated for occupancy by persons who are at least age 55 and that meets other occupancy, policy and reporting requirements stated in the law.<sup>46</sup>

#### **Limited exceptions for single rooms and roommates**

If the owner of an owner-occupied, single-family home rents out a room in the home to a roomer or a boarder, and there are no other roomers or boarders living in the household, the owner is not subject to the restrictions listed under "Examples of unlawful discrimination" on page 12.

However, the owner cannot make oral or written statements, or use notices or

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39 Government Code Sections 12926(p), 12927(e), 12955(a),(d). See Fair Employment and Housing Act, Government Code Section 12900 and following; federal Fair Housing Act, 42 United States Code Section 3601 and following.

40 Civil Code Sections 51, 51.2, 53; *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142 [278 Cal.Rptr. 614].

41 Government Code Section 12955(m), Civil Code Section 51.

42 Government Code Sections 12955(n),(o).

43 *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142 [278 Cal.Rptr. 614].

44 Civil Code Section 1940.3; California Practice Guide, Landlord-Tenant, Paragraph 2:569.1 (Rutter Group 2011).

45 California Practice Guide, Landlord-Tenant, Paragraph 2.553 citing *Koebke v. Bernardo Heights Country Club* (2005) 36 Cal.4th 824 [31 Cal.Rptr.3d 565]. See Civil Code Section 1940.3.

46 42 United States Code Section 3607(b), Civil Code Section 51.3(b)(1). "Housing for senior citizens" also includes: Housing that is provided under any state or federal program that the Secretary of Housing and Urban Development has determined is specifically designed and operated to assist elderly persons (42 United States Code Section 3607(b)); or a housing development that is developed, substantially rehabilitated or substantially renovated for senior citizens and that has the minimum number of dwelling units required by law for the type of area where the housing is located (for example, 150 dwelling units built after January, 1996 in large metropolitan areas) (Civil Code Sections 51.2, 51.3. Government Code Section 12955.9. See *Marina Point Ltd. v. Wolfson* (1982) 30 Cal.3d 721 [180 Cal.Rptr. 496]). While the law prohibits unlawful age discrimination, housing for homeless youth is both permitted and encouraged. (Government Code Section 11139.3.)

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advertisements which indicate any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability.<sup>47</sup> Further, the owner cannot discriminate on the basis of medical condition or age.<sup>48</sup>

A person in a single-family dwelling who advertises for a roommate may express a preference on the basis of gender, if living areas (such as the kitchen, living room, or bathroom) will be shared by the roommate.<sup>49</sup>

### Resolving housing discrimination problems

If you are a victim of housing discrimination (for example, if a landlord refuses to rent to you because of your race or national origin), you may have several legal remedies, including:

- Recovery of out-of-pocket losses.
- An injunction prohibiting the unlawful practice.
- Access to housing that the landlord denied you.
- Damages for emotional distress.
- Civil penalties or punitive damages.
- Attorney's fees.

Sometimes, a court may order the landlord to take specific action to stop unlawful discrimination. For example, the landlord may be ordered to advertise vacancies in newspapers published by ethnic minority groups, or to place fair housing posters in the rental office.

A number of resources are available to help resolve housing discrimination problems:

- **Local fair housing organizations** (often known as fair housing councils). Look in the white (business) and yellow pages of the phone book. The National Fair Housing

Alliance maintains a searchable database of local organizations that advocate for fair housing at [www.Fairhousing.org](http://www.Fairhousing.org).

- **Local California apartment association chapters.** Look in the white (business) and yellow pages of the phone book. The California Apartment Association maintains a list of local apartment association chapters at [www.caanet.org](http://www.caanet.org).
- **Local government agencies.** Look in the white pages of the phone book under *City or County Government Offices*, or call the offices of local elected officials (for example, your city council representative or your county supervisor).
- **The California Department of Fair Employment and Housing** investigates housing discrimination complaints (but *not* other kinds of landlord-tenant problems). The department's Housing Enforcement Unit can be reached at (800) 233-3212 TTY (800) 700-2320. You can learn about the department's complaint process at [www.dfeh.ca.gov](http://www.dfeh.ca.gov).
- **The U.S. Department of Housing and Urban Development** (HUD) enforces the federal fair housing law, which prohibits discrimination based on sex, race, color, religion, national origin, familial status, and handicap (disability). To contact HUD, look in the white pages of the phone book under *United States Government Offices*, or go to [www.hud.gov](http://www.hud.gov).
- **Legal aid organizations** provide free legal advice, representation, and other legal services in noncriminal cases to economically disadvantaged persons. Legal aid organizations are located throughout the state. Look in the yellow pages of the phone book under *Attorneys*, or go to [www.lawhelpcalifornia.org/CA/StateDirectory.cfm](http://www.lawhelpcalifornia.org/CA/StateDirectory.cfm).

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<sup>47</sup> Government Code Sections 12927(a)(2)(A), 12955(c).

<sup>48</sup> Civil Code Sections 51, 51.2, Government Code Section 12948.

<sup>49</sup> Government Code Section 12927(c)(2)(B).

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