



Is it Harassment? Common Types and Taking Action

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DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING



HARASSMENT PREVENTION GUIDE

For California Housing Providers



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INTRODUCTION

Harassment because of a person’s protected characteristic is a discriminatory housing practice that is prohibited by California law. Housing providers – including landlords, property management companies, emergency shelters, and homeowner associations (HOAs) – are liable for their own conduct that results in harassment or any other discriminatory housing practice.¹ In addition, housing providers can be liable for failing to take prompt action to correct and end harassment or another discriminatory housing practice by the housing provider’s employee or agent or by a third party, such as another tenant. Housing providers can consult with an attorney regarding their obligations to prevent and end harassment or any other discriminatory housing practice.

The Department of Fair Employment and Housing (DFEH) is the state agency that enforces California’s civil rights laws. These laws are intended to ensure all Californians have equal opportunities to access employment, housing, public accommodations, and state-funded programs and activities. The Fair Employment and Housing Act (FEHA) applies to all housing providers in California,² and the Unruh Civil Rights Act additionally applies to any housing provider that is also a business of any kind.³ California’s Fair Employment and Housing Council enacted regulations that became effective on January 1, 2020 that clarify the obligations under the FEHA related to discriminatory housing practices.⁴ This document was produced by the DFEH to provide further guidance to California housing providers regarding their obligations and best practices to correct and end harassment.⁵

This guidance is for informational purposes only and does not create any rights or obligations separate from those imposed by the FEHA and its implementing regulations or other laws enforced by DFEH.

¹ This guide is intended for use by housing providers. California’s civil rights laws apply not only to providers of housing, but to any person or entity involved with a housing opportunity or residential real estate transaction, such as real estate agents, appraisers, and home insurers.

² Gov. Code § 12955 et seq.

³ Civ. Code § 51 et seq.

⁴ Code of Regs, tit. 2, §§ 12005 - 12271.

⁵ Code of Regs, tit. 2, § 12010.

UNLAWFUL HARASSMENT AND HOUSING PROVIDERS' OBLIGATIONS

1. What do California's fair housing laws generally protect against?

California's [fair housing laws](#) prohibit housing providers (including their employees or agents) from discriminating against or harassing a tenant, resident, home seeker or applicant, or homeowner, because of a protected characteristic. The FEHA prohibits discrimination and harassment based on a person's race, color, ancestry, national origin, religion, [mental or physical disability](#), sex (including pregnancy), gender, [sexual orientation, gender identity, gender expression](#), genetic information, marital status, familial status, [source of income](#), or [military or veteran status](#).⁶ In addition, the Unruh Civil Rights Act, which applies to business establishments, protects against housing discrimination related to age, citizenship, primary language, and [immigration status](#), among other characteristics. California law also limits when, how, and to what extent housing providers can consider someone's [criminal history](#).

The prohibition on discrimination and harassment extends to conduct that is based on a perception of someone's protected characteristic (even if incorrect) or the protected characteristic of another person with whom the victim of discrimination or harassment associates. For example, it is unlawful for a housing provider to harass a tenant because the tenant has a particular national origin, disability, or gender identity; because the housing provider perceives the tenant has a particular national origin, disability, or gender identity (even if that perception is incorrect); or because the tenant associates with someone of a particular or perceived national origin, disability, or gender identity.

In addition, California law requires housing providers to provide or allow reasonable accommodations and reasonable modifications so that a person with a disability can use and enjoy the dwelling.

A housing provider may not retaliate against someone who exercised their rights under California fair housing laws or aided or encouraged someone else in doing so, such as by filing a complaint of discrimination with DFEH.

⁶ See Gov. Code §§ 12925 & 12955 (definitions).

2. What is unlawful harassment in housing?

In the housing context, harassment falls into two categories: “*quid-pro-quo*” and “*hostile environment*.”

QUID-PRO-QUO harassment typically involves an unwelcome request or demand that a person engage in conduct as a condition of obtaining or maintaining housing or housing-related services. Quid-pro-quo is Latin for “this for that.” For example:

- A landlord tells an applicant he won’t rent her an apartment unless she has sex with him.

In this scenario, the conduct is unlawful whether or not the applicant submits to the demand.

HOSTILE ENVIRONMENT harassment is unwelcome conduct that is sufficiently severe or pervasive as to interfere with a person’s use or enjoyment of a dwelling, housing opportunity, or housing-related services or facilities. *Hostile environment* harassment does not require a change in the terms, conditions, or privileges of the dwelling, housing opportunity, or housing-related services or facilities. For example:

- A tenant repeatedly refers to another tenant with unwelcome racial or gendered derogatory slurs.
- One homeowner in an HOA purposefully and repeatedly obstructs a common pathway so that another homeowner, who uses a wheelchair, cannot pass.

It does not matter if these harassers thought they were making a joke; what matters is whether conduct was unwelcome, sufficiently severe or pervasive, and motivated by a protected characteristic. A single act can be sufficiently severe to be unlawful.

It is possible for the same conduct to be both *quid-pro-quo* harassment and *hostile environment* harassment.

HARASSING BEHAVIORS INCLUDE:

- *Verbal harassment* such as epithets, derogatory comments, or slurs;
- *Physical harassment* such as leering, gesturing sexually, following or cornering someone, blocking or impeding someone’s way, deliberately touching someone (like fondling, kissing, pinching, patting, rubbing, or brushing against another’s body), or attempted or actual rape or sexual assault;
- *Visual harassment* such as derogatory posters, cartoons, drawings, writings, or other documents;

- *Coercion, intimidation, threats, interference* with a person’s exercise or enjoyment of their dwelling or a housing opportunity; or
- *Revealing private information* about a person, without their consent (unless such disclosure is required by law).

When based on a protected characteristic, these forms of harassment can violate California’s fair housing laws. At the same time, fair housing laws recognize the rights of free speech and association, when they are legally protected.

3. Who can commit unlawful harassment in housing?

Harassment based on a protected characteristic can be committed by a housing provider, the housing provider’s employee or agent, or a third party, such as another tenant, another resident, a guest of a tenant or resident, or a contractor hired by the housing provider. Examples of harassment by a third party include:

- A tenant paints a swastika on the door of another tenant whom they believe to be Jewish.
- A resident at a property run by a homeowner association repeatedly shouts demeaning and unwelcome sexual comments about another resident’s body while at the common pool.
- A group of tenants threatens a family living in the same building with deportation while yelling ethnic slurs.
- A group of residents bully and denigrate another resident because they are – or are perceived to be – gay, lesbian, bisexual, transgender, or gender non-binary.

4. What are housing providers’ legal duties with respect to harassment against tenants and residents?

Housing providers must not engage in harassment of tenants or residents; must take prompt action to correct and end harassment by their employees and agents; and must take prompt action to correct and end harassment by a third party, where the housing provider knew or should have known of the discriminatory conduct and has the power to correct it.⁷ This means landlords, property managers, HOAs, emergency shelters, and all other housing providers have a duty to correct and end discriminatory housing practices, including harassment, committed not only by the housing provider but also by third-parties (such as other tenants, other residents, or contractors hired by the housing provider) when the housing provider has the legal responsibility

⁷ Code of Regs., tit. 2, § 12010.

or authority to correct it. The victim of harassment could include a tenant, resident, an invited visitor to the property, or an independent contractor of the housing provider, such as a gardener or plumber.

The power to correct and end harassment by a third party may derive from a lease, residential agreement, common interest development document, contract, or other authority. For example, a residential lease or the Covenant, Conditions, and Restrictions (CC&Rs) governing a housing association may have express anti-harassment, anti-nuisance, and/or quiet enjoyment provisions. Moreover, in California, every residential lease contains an implied covenant of quiet enjoyment that may be violated by not only the lessor but also by third parties, such as other tenants.⁸

5. What are recommended practices for housing providers to prevent third-party harassment?

To help prevent harassment from happening in the first place or to correct it before growing into a bigger problem, housing providers can:

- Revise leases, residential agreements, and other contracts to include an anti-harassment policy and make clear that harassment and discrimination will not be tolerated.
- Communicate at the beginning of the residency and regularly that harassment is unacceptable at the property and complaints will be promptly and fairly investigated.
- Communicate information about anti-discrimination rights and responsibilities through a variety of channels, such as posters in common areas, enclosures in mailings, such as invoices or lease renewal letters, and community newsletters.
- Ensure common areas are well-lit and any security cameras are functional.
- Provide all tenants and residents the contact information for the person who is responsible for receiving and/or investigating harassment allegations.
- Provide training for anyone who handles complaints of harassment.

⁸ Civ. Code § 1927; *Andrews v. Mobile Aire Estates* (2005) 125 Cal. App. 4th 578.

INVESTIGATING HARASSMENT

1. When a housing provider receives a report of harassment or other wrongful behavior, what are the next steps?

The housing provider should give this information immediate attention and determine whether the behavior is serious enough that an investigation is needed. If it is not so serious (such as a tenant's discomfort with an offhand but unwelcome compliment), then the housing provider may be able to resolve the issue by counseling the individual who made the offending comment. Nonetheless, the housing provider should keep a record of any complaint that alleges harassment.

However, if there are allegations of conduct that, if true, would violate the housing provider's rules, lease, or other agreement or California's laws, the housing provider will need to investigate the matter to make a factual determination about what happened. It's best to develop an investigation policy with clear procedures to respond to complaints, guide investigations, and determine any relevant follow-up action.

An investigation involves several steps and the housing provider will need to consider a variety of issues before beginning the investigation. The following FAQs address many of those issues.

2. What are the basic steps required to conduct a fair investigation?

A phrase that you might hear related to investigations is "due process." Due process is simply a formal way of saying "fairness." Housing providers should be fair to all parties during an investigation of harassment. From a practical perspective, this means:

- Conduct a thorough interview with the complaining party and suggest the complaint be in writing if possible. Whenever possible, the investigation should start with this step. Keep careful and detailed notes during the interview. Allow the complaining party to submit a written statement, if they choose to. Reassure the complaining party that their concern will be kept as confidential as possible.
- Give the accused party a chance to tell their side of the story. The accused party is entitled to know the allegations being made against them; however, it is good investigatory process to reveal the allegations during the interview, rather than before the interview takes place, to help ensure the integrity of the investigation. In some cases, it may not be necessary to disclose the identity of the complaining party. Due process does not require showing the

accused party a written complaint. Rather, it means making the allegations clear and getting a clear response. Allow the accused party to submit a written statement, if they choose to.

- Interview relevant witnesses and gather and review other relevant evidence, such as documents, records, or security camera footage. This does not mean a housing provider must interview every witness or review every piece of evidence suggested by the complainant or accused party. Rather, the housing provider should interview any witness whose information could impact the findings of the investigation and attempt to gather any evidence that could reasonably confirm or disprove the allegations or the accused’s response to the allegations.
- Do other follow-up investigation that might be necessary to assess what occurred, by whom, and against whom, and important surrounding context. For example, if the alleged harassment took place online or via text message, the housing provider could ask for screen shots or other ways to view and copy the messages.
- Reach a reasonable and fair conclusion about what occurred based on the information collected, reviewed, and analyzed during the investigation.
- In some cases, the alleged harassing conduct may appear to rise to the level of criminal conduct, such as stalking, making a credible threat of violence, or assault. In this case, reporting the conduct to the police may be warranted.
- Communicate the results of the investigation and any follow-up actions you plan to take to the relevant parties.

3. Is an investigation confidential?

Generally, a housing provider cannot promise complete confidentiality when investigating a complaint.⁹ Housing providers can only promise limited confidentiality – that the information will be limited to those who “need to know.” A housing provider cannot promise complete confidentiality because it may be necessary to disclose information obtained during the investigation in order to complete the investigation and take appropriate action. It is not possible to promise that a complaint can be kept entirely “confidential” for several reasons:

- If the complaint alleges a potential violation of law, policy, agreement, or other source of authority or responsibility of the housing provider, the housing provider will need to investigate. In the process of investigating, it is likely that people will know or assume details about the allegations, including the identity of the person who complained. This is true even when the name of the complaining party is kept confidential because allegations are often clear enough for people to figure out who complained about what.

⁹ Federally-subsidized housing providers may have applicable confidentiality requirements under the Violence Against Women Act. See Code of Fed. Regs., tit. 24, § 5.2007(c).

- The housing provider receiving the complaint will often have to consult with someone else (such as the property owner, property management supervisors, or HOA board) about such things as what steps to take and whether there have been past complaints involving the same individual. That means the complaint will be discussed with others.
- The housing provider may need to take action. Again, while the identity of the person who brought the complaint may in some cases be kept confidential, the complaint itself cannot be.

4. How quickly does a housing provider need to begin and finish the investigation?

The investigation should be started, conducted, and concluded promptly. However, a housing provider also must take the time to make sure the investigation is fair to all parties and is thorough. A housing provider may want to set up specific timelines for responding to complaints depending on how serious the allegations are. For example, if a complaint involves claims of physical harassment or a threat of violence, the housing provider should act the same day as the complaint is received. If the allegation is not urgent, make it a point to contact the complaining party within a day or two and strive to finish the investigation in a few weeks (although that depends on several factors, including the availability of witnesses).

A prompt investigation assists in stopping harassing behavior, sends a message that the housing provider takes the complaint seriously, helps ensure the preservation of potential evidence (including physical evidence, such as emails and videos, and witnesses' memories), and allows the housing provider to fairly address the issues in a manner that will minimize disruption to the people involved.

5. When and how should an investigator assess the credibility of the complainant, accused party, and witnesses?

If there is no disagreement about the facts, it may not be necessary to make a credibility determination. However, many investigations require a credibility determination, including the classic "he said/she said" situation, and it is up to the investigator to make this determination. An investigator can still reach a reasonable conclusion even if there is no independent witness to an event. In most cases, if the investigator gathers and analyzes all relevant information, it is possible to come to a sensible conclusion.

It is not uncommon for there to be no direct witnesses to harassment. Yet there may be other evidence that would tend to support or detract from the claim. For example, a complainant who complains about harassment may have been seen to be upset shortly after the event or may have told someone right after the event. This would tend to bolster their credibility. On the other hand, it would tend to bolster the accused party's credibility if the investigator learned that the accused party was out of town when the harassment allegedly occurred at the property. In other cases, documents such as emails or texts might bolster or reduce a witness's credibility.

Even if there is no evidence other than the complainant's and accused party's respective statements, the investigator should weigh the credibility of those statements and make a finding as to who is more credible.

THE INVESTIGATOR CAN UTILIZE THESE CREDIBILITY FACTORS:

- Inherent plausibility – This refers to whether the facts put forward by the party are reasonable: whether the story holds together. In other words, ask yourself whether it is plausible that events occurred in the manner alleged.
- Motive to lie (based on the existence of a bias, interest, or other motive) – This refers to whether a party has a motive to be untruthful.
- Corroboration – This refers to whether a direct or indirect witness or documentary evidence corroborates some or all of the allegations or response to allegations.
- Extent a witness was able to perceive, recollect, or communicate about the matter – This refers to whether the witness could reasonably perceive the information reported (in terms of where they were, what else was happening, etc.).
- History of honesty/dishonesty – Although investigations are not meant to make character judgments about the parties (i.e. whether they are a “good person”), if an individual is known to have been dishonest, this can weigh against their credibility.
- Habit/consistency – This refers to allegations of a behavior that someone is known to do on a regular basis (such as greeting all female tenants with a hug).
- Inconsistent statements – This refers to one individual giving statements that are inconsistent with other statements they have made in a way that is not easily explained.

6. How should the investigator “weigh the evidence” to come to a conclusion?

Investigators should make findings based on a “preponderance of the evidence” standard. This is the standard that civil courts use in discrimination and harassment cases. This standard is also called “more likely than not.” Under this standard, the investigator is making a finding that it is more likely than not that the conduct alleged occurred, or more likely than not that it did not

occur. Some people describe a preponderance of the evidence standard as “more than fifty percent likely.”

This is not the “beyond a reasonable doubt” standard that may be familiar from criminal cases. Criminal cases, in which a defendant is considered innocent until proven guilty and the consequence of guilt is a loss of freedom, apply a much higher (more difficult) standard of proof. The “beyond a reasonable doubt” standard means that if there is any reasonable doubt that the event did not occur, then the accused is not guilty.

7. What kind of documentation should an investigator assemble?

Investigators should carefully and objectively document witness interviews, evidence gathered or not available, the findings made, and the steps taken to investigate the matter. Investigators have different methods of documenting interviews, including taking notes (handwritten or on a computer), drafting statements for witnesses to sign, obtaining witness statements (written by the witness), or audio recording. There are pros and cons to each method. Any can be acceptable so long as the information gathered is reliable and thoroughly documented and the documentation is not altered. It is also advisable to be consistent in the way you decide to document your interviews (unless there is a good reason to change your usual practice). Some investigators type up handwritten notes so they are legible; however, the handwritten notes should also be retained. Housing providers should consider retaining all documentation assembled in an investigation for as long as possible, analyzing on a case-by-case basis the potential need for the records against the cost of storage.

8. Does a housing provider need to investigate an anonymous complaint?

Anonymous complaints should be investigated in the same manner as those with an identified complainant. The method will depend on the details provided in the anonymous complaint. If the complaint is sufficiently detailed, the investigation may be able to proceed in the same manner as any other complaint. If the information is more general, the housing provider may need to do an “environmental assessment” or survey to try to determine where there may be issues. An environmental assessment is a process of finding out what is taking place on the property without focusing on a specific complaint or individual. For example, it might mean interviewing or surveying tenants in a particular building about how they interact or if they have experienced or witnessed any behavior that has made them uncomfortable.

9. Should a housing provider's investigation be impartial?

Yes. Findings should be based on objective weighing of the evidence collected. It is important for the person conducting the investigation to assess whether they have any biases that would interfere with coming to a fair and impartial finding and, if the person conducting the investigation cannot be neutral, to find someone else to conduct the investigation. Even if an investigator determines they can be neutral and impartial, they must evaluate whether their involvement will create the perception of bias. A perception of bias by the investigator will discourage open dialogue with all involved parties. For example, in a case in which the investigator has a personal friendship with the complainant or accused, either actual or perceived, the investigator may need to recuse themselves to avoid the appearance of bias. An investigator who has training and/or experience with standard investigatory practices as well as California fair housing laws is recommended.

10. What are tips for questioning people?

Investigations should not be interrogations. Neither the complainant nor the accused party should feel they are being cross-examined. Studies have shown that open-ended questions are better at eliciting information while not causing people to feel attacked. Investigators should ask open-ended questions on all areas relevant to the complaint to get complete information from the parties and witnesses.

ENDING AND CORRECTING DISCRIMINATORY HARASSMENT / NO RETALIATION

1. If an investigation reveals that harassment occurred, what should a housing provider do?

California fair housing regulations make clear that housing providers must take prompt action to correct and end harassment if they have the power to do so, as authorized by a lease, CC&Rs, contract, agreement, or other authority. This means taking appropriate action to end the harassment and discourage it from happening again. For example, if the harassment is relatively minor, explaining to the harasser what they did was wrong and possibly against the law may be sufficient to end the harassment. If counseling does not promptly end the harassment—or is not

reasonably expected to end the harassment—more severe steps may be appropriate, such as imposing fines, issuing cease and desist notices, and even terminating the harasser’s tenancy, residency, or work contract, depending on the case. If the investigation reveals conduct that may be criminal, such as stalking, making a credible threat of violence, or battery, the issue may require the involvement of law enforcement.

In taking action to eliminate harassment, a housing provider must not punish the accused more harshly because of a protected characteristic.

2. What do I do if an investigation finds harassment occurred, but it is not clear who did it?

In some cases, an investigation may find that harassment occurred, but the evidence does not clearly indicate who did it. In such an instance, the housing provider must still take action designed to end and correct the harassment. The housing provider could notify all tenants or residents that an act of harassment occurred and that such conduct violates lease agreements or CC&Rs, among other steps. Providing notice of the harassment to the other residents will help deter further harassment and it may encourage residents to provide additional evidence to the housing provider about the harassment.

For example, if someone spray paints a disparaging statement about someone’s religion in the common hallway of an apartment complex, but the investigation doesn’t uncover who did it, the housing provider could: (1) communicate with tenants that harassment against other tenants will be grounds for termination of tenancy, applicable fines, referral to law enforcement, or other enforcement measures; (2) host a meeting to teach people about what happened, why it is not acceptable, and how to report harassment in the future; (3) create a voluntary anti-harassment pledge for residents to sign; and (4) consider whether additional security cameras or other security measures would be appropriate.

3. Can a housing provider retaliate against a tenant or resident who complains of harassment?

No. Housing providers must not take action that penalizes or harms the person making the complaint. Even where the investigation does not support the complaint, it is unlawful to retaliate against someone who complained. Housing providers should tell complainants and witnesses that retaliation violates the law and their policies, should counsel all parties and witnesses not to retaliate, and should be alert to signs of retaliation. Retaliation can take many forms, including obvious retaliation, such as terminating the tenancy of the complainant or

denying the complainant timely repairs. In the case of alleged third-party or tenant-on-tenant harassment, the housing provider should be alert to signs of retaliation from the accused party, including increased harassment of the person who complained.

Retaliation can occur at any time, not only right after an incident is reported or an investigation is started. It is good practice to check back with a complainant after an investigation is completed to ensure that the complainant is not experiencing retaliation, no matter whether the allegations were determined to be correct.

ADDITIONAL QUESTIONS

1. What should a housing provider do when a tenant or resident alleges that harassment was committed by an independent contractor or vendor doing work at the property?

As with tenant-on-tenant or resident-on-resident harassment, a housing provider must correct and end any harassment of a tenant or resident by a contractor or vendor doing work on the property. A housing provider should generally follow the guidance provided elsewhere in this guide and may wish to consult with an attorney. For example, if a tenant alleges harassment by an independent contractor who maintains the landscaping or is working on the plumbing, the housing provider should promptly investigate and take any necessary corrective actions, such as warning the contractor, terminating the contract (if authorized), or not signing any new contracts with this vendor.

2. What should a housing provider do when a tenant or resident has complained of harassment committed by another tenant and the investigation uncovers that the accused party has a mental health condition?

A difficult scenario faced by housing providers is when a tenant or resident, because a mental health condition, harasses other tenants or residents. Generally, housing providers must grant reasonable accommodations in rules, policies, practices, or services when necessary to afford an individual with a known disability an equal opportunity to use and enjoy a dwelling unit, common areas, or a housing opportunity, unless providing the accommodation creates an undue burden

to the housing provider, would constitute a direct threat to the health and safety of others, or would cause substantial physical damage to the property of others.¹⁰ With respect to whether someone poses a direct threat to the health and safety of others, the U.S. Department of Housing and Urban Development and the U.S. Department of Justice’s *Joint Statement on Reasonable Accommodation Under the Fair Housing Act* explains:

A determination that an individual poses a direct threat must rely on an individualized assessment that is based on reliable objective evidence (e.g., current conduct, or a recent history of overt acts). The assessment must consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. Consequently, in evaluating a recent history of overt acts, a provider must take into account whether the individual has received intervening treatment or medication that has eliminated the direct threat (i.e., a significant risk of substantial harm). Housing providers must have reliable, objective evidence that a person with a disability poses a direct threat before excluding them from housing on that basis. In such a situation, the provider may request that the individual document how the circumstances have changed so that they no longer pose a direct threat. A provider may also obtain satisfactory assurances that the individual will not pose a direct threat during the tenancy. The housing provider must have reliable, objective evidence that a person with a disability poses a direct threat before excluding them from housing on that basis.¹¹

The Joint Statement includes the following helpful example:

James X, a tenant at the Shady Oaks apartment complex, is arrested for threatening his neighbor while brandishing a baseball bat. The Shady Oaks’ lease agreement contains a term prohibiting tenants from threatening violence against other residents. Shady Oaks’ rental manager investigates the incident and learns that James X threatened the other resident with physical violence and had to be physically restrained by other neighbors to keep him from acting on his threat. Following Shady Oaks’ standard practice of strictly enforcing its “no threats” policy, the Shady Oaks rental manager issues James X a 30-day notice to quit, which is the first step in the eviction process. James X’s attorney contacts Shady Oaks’ rental manager and explains that James X has a psychiatric disability that causes him to be physically violent when he stops taking his prescribed medication. Suggesting that

¹⁰ See Code of Regs, tit. 2, §§ 12179 - 12180.

¹¹ Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations under the Fair Housing Act, Question and Answer No. 5, available at https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf

his client will not pose a direct threat to others if proper safeguards are taken, the attorney requests that the rental manager grant James X an exception to the “no threats” policy as a reasonable accommodation based on James X’s disability. The Shady Oaks rental manager need only grant the reasonable accommodation if James X’s attorney can provide satisfactory assurance that James X will receive appropriate counseling and periodic medication monitoring so that he will no longer pose a direct threat during his tenancy. After consulting with James X, the attorney responds that James X is unwilling to receive counseling or submit to any type of periodic monitoring to ensure that he takes his prescribed medication. The rental manager may go forward with the eviction proceeding, since James X continues to pose a direct threat to the health or safety of other residents.

3. Where can a housing provider find more information about California’s fair housing laws?

FOR MORE INFORMATION, VISIT:

- <https://www.dfeh.ca.gov/housing/>
- <https://www.dfeh.ca.gov/housing/providerresources/>
- California Code of Regulations, Title 2, section 12005 et seq.
- California Government Code section 12955 et seq.
- California Civil Code section 51 et seq.



PREVENTING and ADDRESSING HARASSMENT in Housing Fact Sheet for Property Owners and Managers

Sexual Harassment in Housing is Illegal, as is harassment based on race, color, religion, national origin, familial status, or disability. All property owners and managers are responsible for helping ensure their housing is free from discriminatory harassment of any type. By explaining what harassment is, who can be liable for it, and steps you can take to help prevent and address it, this fact sheet can help you ensure you meet your **Fair Housing Act** obligations.

Understanding Harassment in Housing:

▶ The Fair Housing Act & Equal Access Rule Protect Applicants and Tenants

The **Fair Housing Act** prohibits harassment, retaliation, and other types of discrimination in housing because of race, color, religion, sex, disability, familial status (households with children under age 18, including persons seeking custody or who are pregnant), or national origin.

Owners and property management employees and agents can all be liable for harassment, as can tenants who harass other tenants.

HUD's **Equal Access Rule** prohibits owners with Housing Assistance Payments (HAP) contracts from making housing unavailable because of an applicant's or resident's actual or perceived sexual orientation, gender identity or marital status.

Sexual Harassment is Illegal When:

▶ An owner or property management employee or agent makes *submission to unwelcome demands* for sex, sexual favors, or any other type of sexual conduct a *condition* of obtaining, maintaining, using or enjoying housing (or housing related services).

Examples:

- **Demanding** nude photos in return for approving a rental application.
- **Requesting** sexual favors in return for making needed repairs.
- **Evicting** a person because that person refuses to have sex.

— AND/OR —

▶ An owner or property management employee or agent subjects a resident or applicant to *unwelcome sexual conduct* that is sufficiently *severe or pervasive* that it interferes with that person's right to obtain, maintain, use, or enjoy housing (or housing-related services).

Examples:

- **Persistently** making unwelcome and lewd comments about a resident's body.
- **Touching** an applicant's intimate body parts without his or her consent.
- **Repeatedly** sending unwelcome sexually explicit text messages and photos to a tenant.



Other Types of Illegal Harassment Include:

Severe or pervasive offensive remarks or hostile behavior because of a person's race, color, religion, sex, disability, familial status, or national origin.

Examples:

- **Repeatedly yelling** anti-Muslim slurs at a Muslim tenant.
- **Taunting** and threatening a person with a mental disability.
- **Subjecting** a person to pervasive racial epithets or defacing a person's home with racially derogatory or threatening words or images.

Owners and Management Companies are Liable for Sexual and Other Harassment in their Housing IF:

The harassment is committed by ANY employee or agent (even if supervisors don't know about it).

Example:

- An owner is liable if the owner's property manager sexually harassed a tenant (the property manager would be liable too).

— AND/OR —

The owner or management company fails to take action(s) within its power to stop harassment of a tenant or applicant by an employee, agent, or another tenant, if they knew or should have known about it.

Example:

- A property management company learns that one tenant has been **repeatedly harassing** another tenant because of that tenant's disability, and no one at the management company acts to stop the harassment.



To Help Prevent and Address Harassment, Property Owners and Managers Should:

- **Establish and enforce** anti-harassment policies to help stop inappropriate or offensive conduct early, before it becomes a Fair Housing Act violation.
- **Provide** multiple ways for tenants to safely and easily make complaints or otherwise report problems.
- **Attend** fair housing training that includes information about preventing harassment and require any staff to do so as well.
- **Take** measures to ensure that people who report harassment are protected from retaliation.
- **Talk** to tenants to find out whether harassment is occurring and to teach them about their fair housing rights and how to report harassment.
- **Hire or designate** a complaint coordinator whose primary responsibility is to investigate reports or complaints thoroughly and take the necessary corrective actions quickly.

File a Fair Housing Act or Equal Access Rule complaint with HUD:

Fair Housing:

- **Online:** https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint;
- **By Phone:** (800) 669-9777; Federal Relay Service/TTY: (800) 877-8339

Equal Access Rule:

- **Owners and managers should instruct residents to contact their local HUD office, which can be found at:** https://www.hud.gov/program_offices/field_policy_mgt/localoffices.
- **Owners and managers can also direct residents to the following website for more information:** https://www.hud.gov/program_offices/fair_housing_equal_opp/housing_discrimination_and_persons_identifying_lgbtq
- **And/or contact the PHA that issued the housing assistance voucher.**