

Public Housing Authorities and the New California AFFH Law: How to Spot Key Fair Housing Issues and Set Goals

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PRRAC

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Credit: Housing Authority of the City of Los Angeles

Acknowledgements

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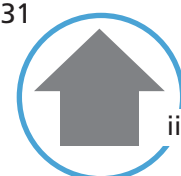
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Imperial Courts. Credit: Housing Authority of the City of Los Angeles



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Credit: San Diego Housing Commission

I. General Introduction: AFFH and “Assessments of Fair Housing” in the federal rule and California

California’s Affirmatively Furthering Fair Housing (AFFH) law, AB 686, took effect on January 1, 2019. This law codifies the federal Fair Housing Act’s requirement to affirmatively further fair housing into state law and requires that this obligation be interpreted consistent with HUD’s 2015 AFFH regulation (regardless of any federal action affecting the regulation).¹ California public housing authorities (PHAs) (as well as the state of California, cities, counties, and state agencies) are prohibited from taking actions that are materially inconsistent with their AFFH obligation. Additionally, the law adds an AFFH analysis to localities’ Housing Element requirement for plans that are due to be revised beginning in 2021. The analysis must assess fair housing problems as well as identifying strategies and goals to proactively address them. While this part of the law applies directly to localities, it provides both localities and PHAs with a framework to advance the substantive requirement – now found in both federal and state law – that these entities further fair housing, including in subsidized housing programs.

The identification of fair housing issues specifically affecting public housing authority clients, applicants, and communities is an important step in advancing the new California AFFH law, and the April 2021 California Department of Housing and Community Development AFFH Guidance Memo urges counties and municipalities to work with their local PHAs when preparing their fair housing assessments as part of the Housing Element process.²

This process will also be valuable in preparing California PHAs for the anticipated reinstatement of the 2015 federal AFFH rule, which had been suspended by the Trump Administration in early 2018 before it was fully implemented with respect to PHAs.

We hope that PHAs will embrace this project and see it as an opportunity that helps them to proactively identify fair housing concerns and to serve as stronger agents of social justice and of better life opportunity for their residents. As PHA leaders know, fair housing is an important part of effective management – and even among highest performing agencies grapple with fair housing issues. One of the reasons for this is that PHAs do not operate in a vacuum – they operate in housing markets still shaped by many decades of discriminatory practices. Yet there are also many concrete and meaningful steps that PHAs can take, on their own as well as in coordination with their local governments, to better further fair housing. New programs, funding streams, and flexibilities, as well as advances in building and sharing best practices, can

The identification of fair housing issues specifically affecting public housing authority clients, applicants, and communities is an important step in advancing the new California AFFH law

1 Gov. Code § 8899.50(c); see also National Housing Law Project, *Affirmatively Furthering Fair Housing: California’s New Law (Assembly Bill 686)* (2019), <https://www.nhlp.org/wp-content/uploads/AB-686-Fact-Sheet-Feb.-2019.pdf>

2 https://hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf



offer forward-looking PHAs new opportunities to break from the past and advance fair housing (but they can sometimes raise new fair housing risks as well).



Credit: County of Monterey Housing Authority

HUD's 2015 "Assessment of Fair Housing" tool (AFH) provides a helpful core framework and methodology for assessing and promoting fair housing for housing departments and PHAs. This manual builds on the basic AFH approach to assist PHAs in California in reviewing their policies and practices to identify outstanding fair housing issues, but provides more focused guidance specifically geared toward PHAs, with a deeper dive into PHA-specific issues, policies, and potential goals. The manual may be used as a stand-alone tool for PHAs, in coordination with the HUD data prompts described in Section 2 below, or as part of a coordinated approach among PHAs and their local governments.

There are three basic inquiries in the AFH approach:

First, looking at your **data**, are there disparities (in program representation or access to opportunity) that express themselves based on race or other protected categories under the federal Fair Housing Act or California's Fair Employment and Housing Act? If the data point to such disparities, what are the hypotheses to explain these disparities – either within the PHA or in the environment outside the PHA?

Second, are there certain **PHA policies and practices** that have the potential to have a discriminatory or segregative effect? These practices (or "contributing factors to fair housing issues") may have outdated design features that contribute to segregation, or local data may show that particular policies have a segregative impact for a given community.

Third, based on the data and policies identified, what are the **goals and strategies** that the PHA can adopt in its policies and PHA Plan to improve its fair housing performance and to affirmatively promote fair housing? This may include changes to existing policy designs, the adoption of new policies or programs, or strategies to work jointly with local agencies such as planning or health departments.



Credit: Housing Authority of the City of Los Angeles

The following sections of this manual address a series of commonly-encountered fair housing issues of concern to PHAs, as well as fair housing considerations in new and expanding programs. By taking up the challenge of the California AFFH law, PHAs can become fair housing leaders in their communities, proactively engage with their jurisdictions, and prepare for the reinstated federal AFFH rule.

II. Using federal, state and local data: subsidized housing location and occupancy in your jurisdiction and region

HUD's 2015 AFH framework provided for a comprehensive data overview of publicly supported housing within a region or jurisdiction, including demographics, siting, occupancy information, and disparities in access to opportunity for residents. The 2015 AFH assessment tool included a series of maps, charts, and related narrative prompts to analyze these aspects of publicly supported housing, in addition to other fair housing issues in the community. Unfortunately, the AFFH data tool was not updated during the Trump Administration, but we expect that it will soon be restored and updated.

This section provides a summary of this data analysis portion of the federal 2015 assessment tool, specifically applied to publicly supported housing, as compared with the new California AFFH Data Viewer. These data are useful for understanding the extent to which publicly supported housing location and occupancy contributes to segregation, concentrated poverty, or lack of access to opportunity, as an initial step to addressing those issues.

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The HUD tool draws from Census and HUD data to produce a variety of tables and maps, for each locality and (for purposes of comparison) for its metropolitan region. Five categories of federal publicly-supported housing are included in the data: 1) public housing; 2) project-based Section 8; 3) other HUD multifamily housing (including Section 202 and Section 811 housing); 4) LIHTC housing; and 5) housing choice vouchers.

The California AFFH Data Viewer, <https://affh-data-resources-cahcd.hub.arcgis.com/>, includes more recent data on location for public housing developments and Housing Choice Vouchers, but does not include the other types of subsidized housing in the HUD data tool – Project Based Rental Assistance and the Low Income Housing Tax Credit. Although PHAs do not (generally) administer these programs, it is important to map their locations in relation to PHA vouchers and public housing assets, to avoid overconcentration of subsidized housing units in any one neighborhood.

Uses of these data tools and maps, include mapping the location of publicly supported housing overlaid on a race/ethnicity dot map, or a map showing neighborhood poverty rates. The tool also contains tables on the number of units by number of bedrooms and children, households by protected class, and the demographics of publicly supported housing development by category. Other maps display how neighborhoods fare when it comes to a variety of opportunity indices such as school proficiency, access to low cost transportation, access to jobs, and environmental health. The tool allows you to disaggregate data by selecting certain demographic groups as well as certain categories of publicly supported housing to conduct a more focused analysis.





Cueva de Oso. Credit: Fresno Housing Authority

The HUD tool and data – in combination with the new California AFFH data viewer – can be used to assess questions such as:

- Are publicly supported housing units concentrated in certain neighborhoods?
- Are there different siting patterns for different categories of publicly supported housing?
- How many publicly supported housing units are located in racially/ethnically concentrated areas of poverty (RECAPs)?
- How many publicly supported housing units are located in areas with access to quality schools, jobs, and transportation?
- Do certain categories of publicly supported housing serve more residents of certain protected classes than others?
- Are subsidized households of certain protected classes more likely than other groups to reside in areas of concentrated poverty?
- Are there enough family-sized units to serve residents with children?
- How many units are accessible to persons with disabilities? Where are these units located?

Note that HUD data and the HUD data prompts do not include all of the information that PHAs may need to collect or analyze that is relevant to fair housing concerns. Additional information includes, for example:

- Are voucher payment standards sufficient to access areas of low poverty? What effect do payment standards have in limiting access to certain neighborhoods?
- To what extent is discrimination against families with vouchers a factor in where families are able to move?
- Are members of certain protected classes more likely to apply to certain categories of housing?

Where applicable, this manual provides a starting point to guide PHAs to analyze those additional considerations, in the sections below.

III. Assessing PHA Policies

1. Tenant selection and affirmative marketing

As a critically important part of PHA management, tenant selection is an area where many fair housing challenges can emerge. To help meet their duty to affirmatively further fair housing, PHAs should use criteria that ensure that all eligible families have a fair chance to live in assisted housing and have fair access to a range of available units and developments. This section will cover several key components of tenant selection and outline how PHAs should evaluate them, using a fair housing lens.

PHAs should use criteria that ensure that all eligible families have a fair chance to live in assisted housing and have fair access to a range of available units and developments.

A. Looking at your data

The AFFH data tools, PHA records, and the American Community Survey (which includes information on cost burden) can provide important insights into the fair housing impacts of your tenant selection policies. A PHA can walk through the following analysis of its local and regional data to identify likely fair housing concerns:

- What are the demographics of income eligible households in your regional housing market (by race, ethnicity, families with children, limited English proficiency, disability)?
- How do these data compare with the makeup of your public housing and HCV waitlists?
- How do these data compare with the makeup of your public housing and HCV resident population?
- If there are significant disparities in the data, what are your hypotheses for those disparities, and could they be the result of any PHA policies?
- Among the eligible populations in your regional housing market, which groups do the data show are the most severely cost burdened? Are these families fairly represented on your waitlists and resident populations?

B. Examining your policies and practices

Specific PHA policies and practices can have a direct effect on fair housing outcomes, including on the extent to which subsidized households have fair and adequate access to affordable housing in a range of developments and neighborhoods. (General areas of policy examination are identified as “contributing factors to fair housing issues” in the 2015 HUD guidance and rule.) In addition to examining data, PHAs can identify problem areas (and potential solutions) by doing a detailed policy assessment. Some policies and protocols are likely to raise red flags from a fair housing perspective. In addition, PHAs should familiarize themselves with best practices across policy areas so that they have a yardstick against which to measure their own programs and design goals for improvement.

(i) Admission Preferences

Public housing authorities are allowed to adopt a variety of preferences in order to give admission priority to certain applicants.³ These preferences must be included in the PHA plan.⁴ Some common preferences include a preference for residents of a certain geographic area, working families, veterans, persons with disabilities, single certain persons, and others.⁵

Preferences can help PHAs achieve important policy goals in their community by favoring certain applicants over others. But, of course, preferences also have a significant negative impact on applicants without a preference, who may face a longer wait for housing or never qualify for housing at all. Where these impacts affect members of a “protected class” under the Fair Housing Act (FHA) and the Fair Employment and Housing Act (FEHA), they may be problematic, especially where the impact is significant. The impact on families with children, if they are disadvantaged in obtaining housing or exercising broader housing choice through receipt of a voucher, may be of particular concern. As a result, admissions preferences should be used with caution, and PHAs should evaluate the various impacts of their admissions preferences carefully.

Residency preferences

- Whenever possible, residency preferences should be avoided. The use of residency preferences may undermine fair housing goals by having a disproportionate effect on the basis of race or another protected characteristic. Narrowly tailored anti-displacement preferences to ensure that protected class members can remain in a community must be applied with care to ensure other protected classes are not negatively impacted.
- Often, preferences may have the effect of perpetuating racial segregation among neighborhoods. This will likely be an issue when families of color seek to move to communities that are predominantly white.
- Residency preferences can be the basis for legal challenges that allege that PHA residency preferences have a discriminatory effect against people of color and impair the right to freedom of movement.
- Implementing residency preferences may have an especially negative impact on those who are least likely to apply for housing.
- Any residency preference should be as broad as possible and should include alternatives such as giving preference to applicants who work in the service area.

Preferences for working families

- If your PHA is considering a preference for working families, note that the preference should avoid discriminating against persons with disabilities.

3 24 C.F.R. § 960.206

4 See 42 U.S.C. § 1437f(d)(1)(A)

5 Id.

- The definition of work should generally be as broad as possible and include activities that can help lead to work in the future, such as work training programs and educational activities.
- Working preferences should also include individuals who are temporarily out of work and are receiving unemployment benefits.

Preferences for homeless individuals and veterans

- These popular preferences may inadvertently exclude families with children from equal access to your programs.

Under what circumstances can preferences advance fair housing?

- Residency preferences may be appropriate in special circumstances. For example, residency preferences may be to help prevent displacement of longtime residents in neighborhoods experiencing gentrification and price-pressure. A preference enacted for this purpose should be implemented in a way that will not inhibit integration.⁶
- Certain targeted preferences for families with children can help improve outcomes. For example, a PHA can implement a preference for families with children at risk from unhealthy housing or neighborhood conditions.⁷

How are preferences being monitored?

- PHAs should continually assess the impact of current preferences to determine whether they are achieving targeting goals.
- Check to see what percentage of applicants of color or other protected class groups qualify for the preference compared to the percentage of applicants who would otherwise qualify without the preference

California Fair Employment and Housing Act Protected Classes⁸

- | | | |
|-------------------|--|--|
| ■ Color | ■ Gender Expression | ■ Any basis that is covered by the Unruh Civil Rights Act (Civ. Code § 51, et seq.), including age, citizenship, primary language, immigration status, as well as additional bases |
| ■ Disability | ■ Sexual Orientation | |
| ■ Familial Status | ■ Marital Status | |
| ■ Race | ■ Ancestry | |
| ■ National Origin | ■ Source of Income (Including Housing Choice Vouchers) | |
| ■ Religion | ■ Genetic Information | |
| ■ Sex | ■ Veteran or military status | |
| ■ Gender | | |
| ■ Gender Identity | | |

⁶ A challenge to New York City's community preference policy is pending in federal court, Noel v. City of New York, No.15-CV-5236 (S.D.N.Y.). See <http://www.antibiaslaw.com/equity>.

⁷ Meghan Hottel, Philip Tegeler, and Megan Haberle, Moving to Healthier Neighborhoods: Options for Local Advocacy 6 (2014).

⁸ See Appendix D.



Fair Housing Act Protected Classes

- Color
- Familial Status
- National Origin
- Sex
- Disability
- Race
- Religion

(ii.) Application Procedures and Waiting Lists

Your policies and procedures for managing application and waiting lists can have significant fair housing impacts. Some important questions to consider include:

How does your PHA assign placement on a waiting list?

- PHAs are allowed to assign places on a waiting list on a first come, first served basis. However, PHAs should think carefully about using a first come, first served system. As PIH Notice 2012-34 (HA) notes, “PHAs should also be aware of the implications each [waiting list] selection method may have. For instance, ordering a waiting list by the date and time of application may result in an adverse effect to applicants with disabilities, especially when the PHA opens its waiting list periodically.”
- Random selection of wait list applicants by lottery should be used as it avoids the adverse effects that a first come, first served system

How easy is it for applicants to apply for housing?

- Requiring in-person applications may unfairly disadvantage people with disabilities as they may be unable to physically wait at an office for extended periods of time or may be unable to access transportation. In-person applications also (by definition) disadvantage families who do not live near the application site, or who do not have easy access to transportation.
- Setting up multiple intake sites and accepting applications by mail or online can reduce disparities in access.
- Extended application periods should be adopted in order to avoid situations in which people rush to apply. Offering an extended period for accepting applications may help people who are among the least likely to apply for housing.
- Application materials must be accessible to persons with limited English proficiency in accordance with the PHA's language access plan.

How is notice provided about opening waitlists?

- A broad variety of outreach methods should be used to inform members of the community that a waiting list is open. PHAs should use different media outlets (including social media and non-English media) and send notice to a variety of service providers and community organizations.
- Notice should provide detailed information about how to apply, local preferences for a waitlist, and any limitations on who can apply.
- Outreach materials should be easily understood and be able to reach LEP individuals and persons with disabilities.

How representative is your waiting list?

- Waiting lists should be representative of eligible families in the PHA's housing market that are in need of housing.
- If a waitlist is not representative, you may need to develop additional outreach strategies.

What steps do you take to manage waiting lists?

- To ensure that waiting lists do not stay stagnant and have as many eligible people as possible, waiting lists should be updated regularly.
- At the same time, efforts to update or purge the waiting lists must be done in a manner to ensure that the individuals on the list are sufficiently apprised of their obligations and given sufficient time to respond and update their contact information.
- Examine who is on different waiting lists. Publicly supported housing programs should be accessible and serve a population that is representative of eligible families in the service area. Consider whether certain categories of programs are serving certain groups more than others and why that is the case.

Thinking about your admissions data...

Applicant pool → Waitlist → Residents

Is the racial/ethnic makeup or family statute of eligible applicants in your housing market substantially different than your waitlist? If so, why? Is the balance of types of families participating in each program substantially different from the composition of the waitlist? If so, why?

(iii.) Affirmative Marketing

Affirmative marketing is intended to help improve open housing choice by equalizing access to information about housing opportunities.⁹ By enhancing exposure to housing opportunities that households may not be aware of, especially across a range of neighborhoods throughout a metropolitan region, affirmative marketing can help to address an entrenched cycle of patterns of segregated housing.

Affirmative marketing is required in a number of HUD programs. PHAs should consider which media platforms and community organizations underrepresented groups use to receive information about community concerns and housing opportunities. Using these platforms and partnering with community organizations will assist in

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⁹ MEGAN HABERLE, EBONY GAYLES, AND PHILIP TEGELER, ACCESSING OPPORTUNITY: AFFIRMATIVE MARKETING AND TENANT SELECTION IN THE LIHTC AND OTHER HOUSING PROGRAMS (2012).



relaying important housing information to those underrepresented communities. PHAs can also benefit from improved affirmative marketing policies adopted by jurisdictions (for example, in

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connection with development of inclusionary units) or in connection with the Low Income Housing Tax Credit program – especially if affirmative marketing policies include outreach to voucher holders with regard to developments and available units in low-poverty, resource-rich areas.

Best practices in affirmative marketing:

- Go beyond default marketing practices such as placing ads in newspapers. These may be ineffective in reaching potential applicants, particularly those who are among the least likely to apply.
- Deliberate outreach efforts can help break through and reach residents who may not consider or know about certain neighborhoods with better opportunities.
- To diversify the pool of applicants, consider emphasizing outreach to employers and media sources that have a focus on serving communities of color.
- Include outreach to community organizations that serve groups that are among the least likely to apply for housing.
- Requiring the marketing of properties 4-6 months prior to occupancy.
- Requiring all affordable units to be listed on the same website.
- Requiring applications for affordable units be available at public locations including at least one that has night hours.
- Requiring that “least likely to apply” be clearly defined. This determination should require a statistical identification of underrepresented racial groups, with the additional consideration of other factors (such as residence in a high-poverty area).
- Require that the marketing of properties is done regionally rather than locally.

Create protocols to monitor effectiveness and success:

- PHAs should collect data on how an individual heard about the housing and why they decided to apply.
- Collect data on applicants as well as tenants and compare to local and regional demographics.

(iv.) Criminal Records

A common issue in tenant screening is how to handle applications from individuals with a criminal record. Access to affordable housing is crucial for successful reentry for formerly incarcerated individuals. Without housing, returning individuals are at greater risk of recidivism and homelessness.¹⁰

10 Elayne Weiss, *Housing Access for People with Criminal Records* (2019), available at https://nlihc.org/sites/default/files/AG-2019/06-07_Housing-Access-Criminal-Records.pdf

Although PHAs have wide discretion to use criminal records as part of a screening process, PHAs should carefully consider their criteria in order to reduce barriers for potential residents as well as fair housing concerns. Adverse housing decisions based on a criminal record may violate the Fair Housing Act, particularly to the potential disparate impact on people of color. Furthermore, such adverse housing decisions may violate California regulations implementing the Fair Employment and Housing Act, which specifically address the consideration of criminal history information in housing.¹¹ Importantly, under California's fair housing regulations, housing providers can only rely upon criminal history concerning convictions directly related to the housing provider's substantial, legitimate, nondiscriminatory interest or purpose, subject to federally mandatory exclusions based on criminal history.¹²

For information on best practices, please see the National Housing Law Project's resource, *An Affordable Home on Reentry*.¹³

PHAs should assess the following:

What lookback periods does your PHA use in screening?

- PHAs are told to look back in an applicant's history of criminal activity that occurred during a "reasonable time". However, there is no definition of what a "reasonable time" means. PHAs should explicitly define a "reasonable time" in their admissions policy. This will help provide clarity for people with criminal records. Without a definition, individuals with a criminal record may be discouraged from ever applying.
- PHAs should not implement lookback periods that don't have any limits on what history can be reviewed
- HUD has suggested lookback periods for particular crimes (e.g. 5 years for a serious crime)¹⁴ A 3-5 year range is common for PHAs but shorter lookback periods should be considered for certain crimes (e.g. 12 months for drug-related activity).



Credit: San Bernadino County HRA

What mitigating circumstances does your PHA consider?

- PHAs are required by federal law to consider mitigating circumstances for public housing applicants. These mitigating circumstances include factors such as the time, nature, and extent of the applicant's conduct, as well as the seriousness of the offense.¹⁵
- Additionally, PHAs can consider actions that indicate that the applicant will have good conduct in the future.

¹¹ 2 C.C.R. § 12264 *et seq.*

¹² 2 C.C.R. §§ 12266, 12270.

¹³ <https://www.nhlp.org/wp-content/uploads/2018/08/Rentry-Manual-2018-FINALne.pdf>

¹⁴ Weiss, *Housing Access for People with Criminal Records*.

¹⁵ HUD, PUBLIC HOUSING OCCUPANCY GUIDEBOOK 54 (June 2003), *available at* https://www.hud.gov/sites/documents/DOC_10760.PDF

How are applicants able to present evidence of mitigating circumstances?

- Applicants have a right to present evidence of mitigating circumstances before an adverse action at the time of a background check. However, many applicants may be unaware that they have this right. PHAs should actively inform applicants of this right as soon as possible.
- For the Housing Choice Voucher Program and Project-based Section 8 properties, housing providers are not required to consider mitigating circumstances but HUD has encouraged them to consider mitigating circumstances

Does your PHA consider how portability affects screening?

- A resident with a Housing Choice Voucher and a criminal record may encounter problems when porting their voucher to another jurisdiction. The receiving PHA may rescreen the resident using different criteria than the one used by the initial PHA. Although this type of rescreening is allowed, PHAs should inform residents who are moving that they may be subject to screening based on different criteria.¹⁶



South Tower, Fresno. Credit: Fresno Housing Authority

¹⁶ Weiss, *supra* note 2.

2. Housing management

A. Housing conditions and maintenance disparities

Maintenance is a fundamental part of PHA operations and is one of the main ways that residents interact with PHA staff. As a result, it is a significant source of fair housing concerns.

Discriminatory maintenance practices violate the Fair Housing Act as well as Title VI of the Civil Rights Act of 1964, which prohibits discrimination in HUD-assisted programs on the basis of race, color, and national origin. The implementing regulations for the Fair Housing Act prohibit denying or limiting facilities on the basis of protected class, including failing or delaying maintenance or repairs.¹⁷ HUD regulations for Title VI prohibit subjecting a person to separate treatment in any matter related to his receipt of services. PHAs should closely analyze whether there are disparities or different treatment in maintenance, including property security, across developments or units.

When reviewing maintenance performance, PHAs should examine data to see where properties are located and whether there are any disparities in conditions between properties or disparities in the allocation of maintenance (including staff and financial resources, such as capital and operating funds) and security. For example, there may be instances where properties located in predominantly non-White areas receive fewer maintenance staff and resources and are in poorer condition than properties in predominantly White areas. The same may be true when it comes to how senior developments are maintained and provided security when compared to family developments. Other areas of concern include the level of and adequacy of responsiveness to maintenance requests. For instance, there may be incidents when there is a delayed response to requests for repairs or otherwise unequal service is provided to residents who are members of protected classes. Other potential problems can arise when maintenance is prioritized for certain types of housing (such as senior housing), or unresponsiveness, unreasonable delays, or failure to engage in an interactive process when residents with disabilities make requests that qualify as a reasonable accommodation or a reasonable modification request.

PHAs should examine ...
disparities in conditions
between properties or
disparities in the allocation of
maintenance and security.

Setting goals: implementing best practices

- Adopt uniform maintenance policies and repair standards to be used throughout the PHA's portfolio, including how the PHA will handle the detection of hazardous materials in or near the property.
- Evaluate properties regularly for capital needs and wear and tear defects.
- Engage residents about their impressions of the property's physical needs.
- Clearly spell out how maintenance requests will be handled. (e.g. on a first-come first-serve basis except for emergencies)

17 24 CFR 100.65

Setting goals: implementing best practices continued

- Ensure that maintenance staff receive regular training in order to be familiar with fair housing laws.
- Consider fair housing concerns when selecting contractors that perform maintenance.
- Inform families of the potential effects of being near community polluters, such as contaminated sites, public infrastructure, and industrial land use.

B. Terms and conditions of tenancy

House rules must be reasonably related to the safety, comfort, and convenience of the tenants. PHAs should ensure that house rules are developed with tenant input and should enforce house rules uniformly for all tenants.

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Lease terms must be reasonable and related to legitimate housing purposes. They should also be specific enough so that tenants know the rules.¹⁸ Some common issues arise with lease terms regulating guests and visitors. PHAs may not register guests or require approval of overnight guests. Additionally, banning and trespass policies that prohibit certain individuals from properties must comply with fair

housing laws. For example, these policies cannot be used to ban non-residents with a criminal record due to the possible disparate impact on people of color. Other issues can arise with lease clauses that establish curfews, clauses prohibiting or regulating the tenant's possession or use of appliances, clauses restricting the ability to redecorate a unit, clauses requiring renter's insurance, and clauses banning the possession of firearms. PHA enforcement of one-strike policies also raise fair housing concerns in that they often disproportionately impact members of protected classes.

PHAs should review terms and conditions in leases as well as house rules to ensure that they are reasonable and do not have a disparate impact on protected class groups.

C. Housing climate and tenant on tenant harassment

The Fair Housing Act and the Fair Employment and Housing Act protect tenants from harassment based on membership in a protected class. While sexual harassment is the most commonly discussed form of harassment, fair housing laws also prohibit harassment based on other protected classes, such as race, national origin, or disability. Quid pro quo harassment and hostile environment harassment are the two most common types of harassment claims. Quid pro quo harassment occurs when an unwelcome request or demand is made a condition for maintaining or accessing housing. Hostile environment harassment refers to conduct that is so severe or pervasive that it interferes with accessing or maintaining housing.

¹⁸ *Id.*

In 2016, HUD issued a rule to formalize the legal standards for analyzing a harassment claim under the Fair Housing Act based on protected characteristics.¹⁹ The rule also defined how quid pro quo and hostile environment harassment claims would be handled. PHAs may be held liable for third-party harassment if they fail to take action to end harassment where they know about the conduct and have the power to correct it.²⁰ This means that PHAs can be held liable for failing to stop the harassment of one tenant by another tenant, if the PHA is aware of the ongoing harassment and can take action to address the harassment. California also has adopted fair housing regulations regarding harassment based on the federal regulations.²¹

PHAs should consider the following:

- How can residents complain about harassment by other tenants or employees?
- How many complaints about harassment are received each year?
- What actions does your PHA take to correct and end harassment?
- Is there a procedure in place for offering to move tenants who have been the victims of harassment? Note that in some instances, victims of sexual harassment may also be a victim of sexual assault or stalking, entitling the victim to be moved in accordance with the PHA's VAWA emergency transfer plan.
- What policies are in place to address a tenant who has engaged in harassment?

**Setting goals: implement best practices for
preventing discriminatory harassment**

- Give every resident and applicant a copy of a written PHA anti-harassment policy and how to report it. Provide this information at briefings, orientations, and other meetings
- Enforce lease provisions that prohibit residents from engaging in conduct that threatens the health or safety of others
- Regularly train staff to ensure they know what harassment is and how to identify harassment
- Provide easy ways for residents to report harassment and receive assistance
- Establish a process for responding to complaints of harassment
- Designate a staff member who can investigate harassment claims and take corrective action

19 Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices Under the Fair Housing Act, 81 Fed. Reg. 63054 (Sep. 14, 2016).

20 24 CFR § 100.7(a)(iii).

21 2 C.C.R. § 12120.

3. Housing Choice Voucher administration

Although the HCV program is the largest subsidized housing program in the U.S., only a small proportion of eligible families are able to use it. For this reason, it is especially important that this limited resource be distributed fairly. In addition, the HCV program has more flexibility than any

PHAs should take steps to maximize the potential of the HCV program to help families access opportunity.

other federal housing program to deliver choice and opportunity to families. In order to affirmatively further fair housing, PHAs should take steps to maximize the potential of the HCV program to help families access opportunity. This section will introduce some diagnostic steps that PHAs can take to analyze their HCV program, and some policy changes they can make to achieve their fair housing goals.

A. Looking at your data

1. As discussed above, one of the first issues to assess is the demographic profile of HCV occupancy and waitlist, in relation to the demographics of the larger housing market.
 - Are the demographics of the HCV waiting list similar to the proportion of eligible families in the regional housing market? (by race and ethnicity, familial status, and disability)
 - Do the demographics of families with Housing Choice Vouchers mirror the demographics of families on the waitlist? How do they differ?
 - How do the demographics of families with Housing Choice Vouchers vary from the profile of eligible families in the larger housing market?

As discussed in the tenant selection section above, significant differences in the demographics of these three groups may be traceable to PHA policy or practice (including local preferences, how openings are advertised and marketed, first come-first served waitlist ordering, how applications are handled, etc). These differences may also be amplified by housing market dynamics, such as transportation barriers between towns, lack of information, and discrimination against voucher holders, or community hostility.

2. The second major data point is the geographic distribution of Housing Choice Voucher families by neighborhood type. One of the original purposes of the Housing Choice Voucher

The second major data point is the geographic distribution of Housing Choice Voucher families by neighborhood type.

program (formerly called "Section 8") was to expand housing choice and deconcentrate poverty by giving low income families access to privately owned and managed housing. But as revealed in a recent PRRAC-Center on Budget report,²² HCV families are usually much more geographically concentrated in high poverty and racially concentrated neighborhoods than would be expected, based on the

22 *Where Families With Children Use Housing Vouchers: A Comparative Look at the 50 Largest Metropolitan Areas* (CBPP-PRRAC, January 2019)

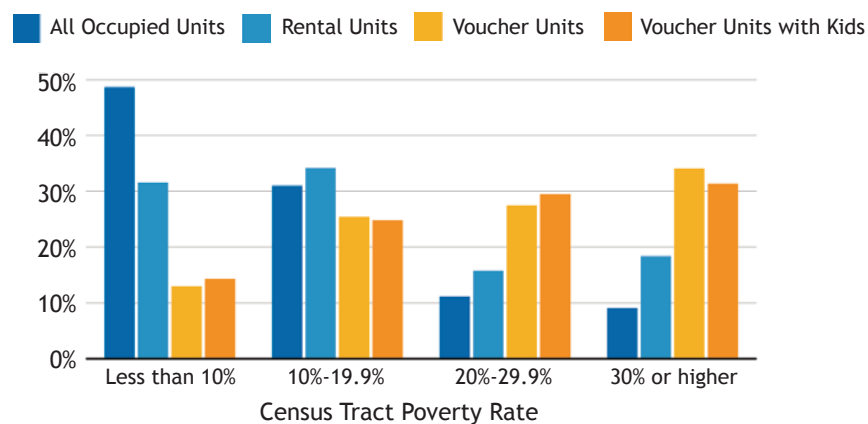
overall distribution of affordable housing. It is essential that each PHA assess the distribution of its own HCV families – particularly families with young children to determine:

- What percentage of families live in high poverty (>30% poverty) vs low poverty (<10%) census tracts?
- What percentage of families live in racially concentrated census tracts?
- How do these numbers trend over time – comparing, for example, 2008 to 2018 HCV administrative data?
- How do these numbers differ by racial/ethnic group?

Examples of Housing Choice Voucher concentration:

Housing Units in the St. Louis Metro Area by Neighborhood Poverty Rate

Share of total units by unit type

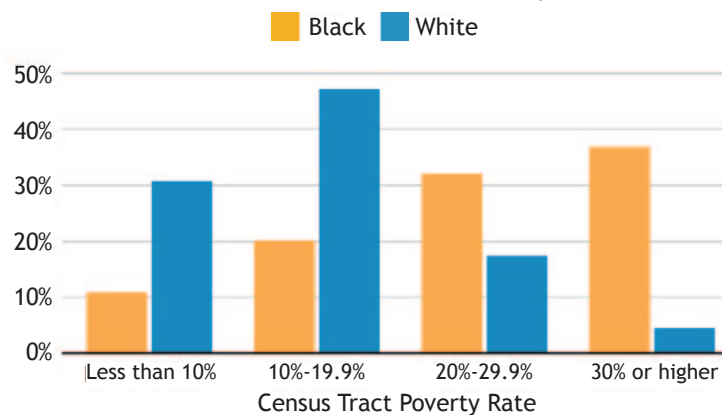


Source: CBPP tabulations of 2015 Department of Housing and Urban Development administrative data and the Census Bureau's 2010-2014 American Community Survey.

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Neighborhood Poverty Rates for Voucher Families with Children in the St. Louis Metro Area

Share of total voucher families with children by race



Note: Race/ethnicity categories are based on the race/ethnicity of the household head.

Source: CBPP tabulations of 2015 Department of Housing and Urban Development administrative data and the Census Bureau's 2010-2014 American Community Survey.

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Evidence of significant levels of HCV concentration may implicate PHA policies and practices, along with regional housing market dynamics. Policies to be examined include low payment standards, portability barriers, unbalanced landlord or apartment listings, inadequate search times, PHA policy priorities communicated to staff, staff interactions with families during briefings, and PHA inspection and payment delays. In the private housing market, barriers may include overt discrimination against families with vouchers, racial discrimination, lack of accessible units, financial barriers to entry into higher opportunity communities (including security deposits, application fees, and moving costs), and general landlord policies with a discriminatory effect (such as overreliance on credit scores, and high income to rent standards).

A further data point on geographic concentration relates to HCV family access to high performing schools, access to environmentally healthy neighborhoods, and access to lead free housing. The first two of these metrics are readily available on the HUD AFFH mapping tool; the latter can be approximated by using basic census data on age of housing (i.e. housing built prior to 1980 census).

B. Examining potential policies of concern (access to the HCV program)

The first important set of HCV policies with fair housing ramifications involve the question of who has access to your program. This is concern for all PHAs – to ensure that unintended barriers are not being erected to persons with disabilities, persons with language access barriers, or persons with past criminal records that do not affect their capacity to be good tenants and neighbors. But it is also a particular concern for PHAs in high opportunity areas, where policies relating to applications may have the effect of excluding families from higher poverty, more racially concentrated nearby areas. PHAs have a responsibility to review their application and admissions policies to ensure that their programs are equally accessible to all applicants:

- Local preferences, including residency preferences
- How openings are advertised and marketed: (first come-first served waitlist ordering, how applications are handled, etc).
- Transportation barriers between towns
- Lack of information on unfamiliar communities
- Perceptions of discrimination or community hostility
- Lack of units available that are accessible to people with disabilities.

C. Examining potential policies of concern (impediments to mobility)

Today, in many metropolitan areas, the HCV program is more geographically concentrated in higher poverty (and racially concentrated) neighborhoods rather than generally dispersed throughout the private rental housing, and almost as geographically concentrated as traditional public housing. The reasons for these patterns of concentration include a combination of housing market factors and PHA practice. Collectively, we call these factors “impediments to mobility.” In addition to looking to disparities in the data on geographic concentration, PHAs can also do a

self-diagnosis of practices that have, in the past, been identified as causes of neighborhood concentration. These include the following:

- Low payment standards
- Geographically limited PHA areas of operation
- PHA policies on family moves and portability
- Landlord and apartment listings (and inadequate landlord outreach): The HUD portability rule requires that PHAs provide a balanced set of apartment listings, including apartments outside of areas of poverty or minority concentration.
- Inadequate search times
- PHA policy priorities communicated to staff and staff interactions with families during briefings and with participant landlords throughout the year
- Briefing materials: HCV briefing materials are required to include maps and other information about low poverty areas both inside and outside the city, and the oral briefing includes “an explanation of the advantages of moving to areas outside of high-poverty concentrations” for families living in high-poverty census tracts.²³
- Delayed PHA approval or tenancy, PHA inspection and payment delays

PHAs can also do a self-diagnosis of practices that have, in the past, been identified as causes of neighborhood concentration.

Families with HCVs also face a variety of challenges in the private market that prevent them from securing housing. PHAs may be able to address the following factors:

- Overt discrimination against families with vouchers, racial discrimination
- Lack of accessible units
- Financial barriers to entry into higher opportunity communities (including security deposits, application fees, and moving costs)
- Transportation barriers

Setting goals

- Landlord recruitment in high opportunity areas – set goal of 10 new listings per month in low poverty neighborhoods
- 5 and 10 year deconcentration goals – set numerical target to reduce number and percentage of HCV families with children living in high poverty neighborhoods
- Small Area FMRs – voluntarily adopt exception payment standards based on SAFMRs in all low poverty zip codes in your area of operation
- Developing a housing mobility program – consider seeking CDBG or HOME funds from your jurisdiction or a grant from your state Housing Trust Fund (if eligible)
- Addressing SOI discrimination – alert local fair housing or legal services advocates or the Department of Fair Employment and Housing if local landlords are violating the state source of income protection law.

²³ But note that current HUD regulations also include that this information be extended to all HCV families, not just families living in high poverty tracts.

- Landlord screening policies with a discriminatory effect (such as overreliance on credit scores, blanket prohibition of tenants with a previous interaction with the criminal legal system, and high income to rent standards).

(i.) Small Area FMRs

The use of Small Area Fair Market Rents (SAFMRs) can be a highly effective tool to help families with housing choice vouchers move to high-opportunity neighborhoods. These neighborhoods have strong schools, low levels of crime, and other amenities and services that can help improve

Every PHA should consider implementing SAFMRs to help unlock the potential of the voucher program.

outcomes. Such neighborhoods often have higher rents that are inaccessible to families using vouchers. HUD's 2016 rule expands the use of SAFMRs, which set voucher amounts at the zip code level rather than on a metropolitan area wide level.²⁴ The use of SAFMRs increases the value of vouchers for families in high rent neighborhoods and communities. While the use of SAFMRs is only mandatory in 24 metropolitan areas across the country, the voluntary adoption of SAFMRs is available to all PHAs. PHAs may opt to adopt

SAFMRs in particular zip codes (such as areas of opportunity). Every PHA should consider implementing SAFMRs to help unlock the potential of the voucher program.

(ii.) Developing a housing mobility program

In order to provide the greatest degree of housing choice for families with vouchers, especially in lower poverty neighborhoods and communities, individualized housing mobility services and landlord recruitment will be necessary.

Successful housing mobility programs include an integrated suite of services to help families who want to move to low poverty, high opportunity areas: intensive landlord recruiting, higher payment standards (SAFMRs) in higher cost communities, one on one client counseling, client training workshops, identification of housing goals, tours of new communities, and individualized housing search assistance. Many programs also provide clients with financial assistance to remove barriers to accessing high opportunity neighborhoods – such as security deposit assistance and moving expenses. To launch a successful housing mobility program, PHAs should consider outsourcing mobility counseling services to a mission driven non-profit, or recruit specialized staff and obtain training from an experienced mobility program.²⁵

(iii.) Effective use of source-of-income protections in California

Source-of-income (SOI) discrimination occurs when landlords or owners discriminate against people using rental vouchers, including refusing to rent to them, evicting them, and treating

24 Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs," Federal Register, Vol. 81, No. 221, November 16, 2016, pp. 80567-80587, <https://www.federalregister.gov/documents/2016/11/16/2016-27114/establishing-a-more-effective-fair-market-rentsystem-using-small-area-fair-market-rents-in-the>

25 See, e.g., www.housingmobility.org.

them unfairly.²⁶ This type of discrimination makes it harder for voucher holders to find a place to live and increases concentration of voucher users in low-opportunity neighborhoods.²⁷

What does California's SOI law cover?

Although California state law prohibited discrimination based on source of income for years, housing vouchers were not considered a source of income until recently. On October 8, 2019, the California Fair Employment and Housing Act was amended to clarify that housing vouchers are considered a source of income.

Specifically, the definition of "source of income" was changed to include federal, state, or local public assistance and housing subsidies paid directly to a tenant or paid to a housing owner or landlord on behalf of a tenant.²⁸ As a result of this legislation, voucher holders are protected from source of income discrimination in all of California. The California Fair Employment and Housing Council is currently considering regulations to implement this protection.



Credit: Oxnard Housing Authority

How can a PHA help implement California's source of income discrimination protections?

Housing Choice Voucher staff should be trained to ask families involved in a housing search if they have encountered discriminatory statements or actions by landlords or housing agents. Families who have experienced discrimination should be referred to the local legal services office or fair housing center for assistance. PHAs may also engage in contracts with legal services or fair housing offices to enable them to take more of these cases. Additionally, PHA staff can report discriminatory housing advertisements, including those that discriminate against voucher holders, via a Department of Fair Employment and Housing online portal.²⁹

Housing Choice Voucher staff should be trained to ask families involved in a housing search if they have encountered discriminatory statements or actions by landlords or housing agents.

26 Source of Income Discrimination, National Housing Law Project (Nov. 17, 2017), <https://www.nhlp.org/resources/source-of-income-discrimination-2/>

27 J. Rosie Tighe et al., Source of Income Discrimination and Fair Housing Policy, *Journal of Planning Literature*, 8 (2017), <https://journals.sagepub.com/doi/pdf/10.1177/0885412216670603>

28 S.B. 329, 2019-2020 Reg. Sess. Cal. Leg. (Cal. 2019).

29 <https://ccrs.dfeh.ca.gov/dnFormPage>

4. Public Housing redevelopment and relocation

Public housing in California, as throughout the country, often faces significant maintenance and habitability challenges due to longstanding shortfalls in funding. In addition, public housing was often built in areas with a continuing legacy of segregation and where the effects of discrimination have been compounded by issues such as siting of environment hazards, lack of job access, flood exposure, and more. PHAs that undertake redevelopment of their public housing stock should follow a clear and detailed fair housing plan, with consideration of siting

PHAs that undertake redevelopment of their public housing stock should follow a clear and detailed fair housing plan, with consideration of siting criteria (so as not to reinforce segregation) and resident protections.

criteria (so as not to reinforce segregation) and resident protections. PHAs in high-cost regions or areas where there is a risk of displacement may need to be especially careful to ensure that redevelopment does not result in further displacement or housing insecurity for residents. Redevelopment plans may also entail coordination with other local agencies, such as planning departments, that may also assist in fair housing reviews.

A. RAD (Rental Assistance Demonstration)

The growing Rental Assistance Demonstration (RAD) program can be a promising way to help preserve and improve existing public housing. However, the large scope of the RAD program and its changes to traditional public housing has implications for fair housing. The civil rights provisions of RAD are a vital component of the program and can help improve access to opportunity. PHAs should assess how they are implementing choice mobility and how they are following site and neighborhood standards.



Silver Sage Affordable Housing. Credit: San Diego Housing Authority

RAD and Choice Mobility

RAD includes a requirement that PHAs provide a choice-mobility option for households in converting properties, through which those households become eligible for a housing choice voucher (should they seek to move to a different neighborhood). While this provision has great potential to expand housing choices for many families outside of high-poverty areas, the success of RAD choice-mobility will largely

depend on actions that PHAs will take. PHAs should develop a comprehensive plan for choice-mobility in order to provide accessible information to residents well in advance of their potential move date, remove uncertainty, and organize the process for PHA staff. A comprehensive choice-mobility plan³⁰ should include policies that outline the right to choice-mobility as procedures that go step-by-step through the process of getting a choice-mobility voucher. This includes providing

³⁰ See <https://prrac.org/pdf/guidance-implementation-of-rad-choice-mobility.pdf>

residents with information on 1) how to apply for a choice-mobility voucher; 2) the waitlist procedure (including what notifications the PHA will provide to the resident, resident actions that can result in removal from the waitlist, the extent to which there are separate waitlists for regular HCVs and RAD choice mobility, and priority rankings on these waitlists); 3) obligations once a RAD resident receives choice-mobility voucher; and 4) what RAD residents should take into consideration when moving. PHAs should also carefully consider how to issue vouchers in a way that will be balanced between choice-mobility and the traditional HCV program.

Providing meaningful information about choice-mobility rights is important, but so is providing adequate mobility counseling for residents who exercise those rights. PHAs should consider the following:



One Hacienda. Credit: Housing Authority of Monterey

How will the choice mobility plan be publicized?

- PHAs should ensure that the choice mobility plan is readily accessible

How are residents notified about choice mobility?

- Ensure that residents are fully briefed about choice mobility in advance of the RAD conversion process and tenants are signing leases and during recertification
- Give regular presentations that explain choice mobility
- Use posters, flyers, and FAQs to provide written information in a clear and easy-to-understand manner

Are there resources to help residents make a mobility move?

- Consider adopting Small Area Fair Market Rents (SAFMRs) to help residents afford housing in selected of opportunity that have higher prices
- Mobility counseling programs, noted above, should be established or enhanced and available to residents exercising their choice mobility option. These programs can provide a variety of services:
 - Organize tours to neighborhoods that residents may not be familiar with
 - Offer workshops on financial literacy, the rights and responsibilities of tenants and landlords, and how to be a good neighbor
 - Have one-on-one counseling that guides residents through the process of moving
- Extend search times for residents
- Strengthen landlord outreach to increase acceptance of vouchers

Site and neighborhood standards

The Fair Housing Act and Title VI of the 1964 Civil Rights Act prohibit discriminatory site selection, including the perpetuation of segregation, in both new construction and transfers of assistance. The Americans with Disabilities Act imposes additional requirements. PHAs must also follow HUD's regulations on site and neighborhood standards.

The RAD program places additional requirements on site selection, including a front-end review process conducted by HUD. Activities subject to HUD review include changes in numbers of units or unit composition, as well as siting of new construction. Even independent of HUD approval, however, a PHA should ensure that RAD redevelopment plans meet the obligation to further fair housing. PHAs should provide a detailed plan (subject to public review) that considers the following, for example:

- Services that will be provided for residents, including counseling on relocation and right to return (note that relocation rights under RAD are broader than those provided by the Uniform Relocation Act). Availability of a written relocation plan and monitoring of protocols for rights to return.
- For new construction, there are very limited exceptions allowing construction in areas of minority concentration. This includes if there is an overriding housing need and the site is part of a robust, documented overall strategy for neighborhood development. This will entail work with other local agencies, such as the planning department.
- Impact on overall number of units and unit composition (for example, adequate number of units with families); this may be an issue of particular concern in higher-cost areas with a lack of available housing and a risk of displacement.
- The obligation to construct and/or preserve units outside areas of minority concentration.



Credit: Housing Authority of Santa Cruz

Other Concerns in Public Housing Redevelopment, Relocation, and Demolition

PHAs that undertake public housing demolitions (allowed under limited circumstances) must also follow fair housing requirements and must develop plans to protect residents.

- Development of a sufficiently detailed anti-displacement and relocation assistance plan, with provision of one-for-one unit replacements and provision of adequate relocation assistance for residents.
- Plan for consultation with legal services and tenant groups.

5. Other housing development and acquisition

A. Low Income Housing Tax Credit (LIHTC)

LIHTC is the largest source of funding for the development of new affordable housing. As a result, the program can be a powerful way to promote housing opportunities for low-income residents and can help support AFFH efforts. However, the LIHTC program often falls short of its potential to improve the opportunities of residents. Although PHAs do not administer the LIHTC program as a whole, they are often directly involved with administration of LIHTC developments. This is in part because PHAs seeking to redevelop their public housing through RAD, CNI, or as mixed-income housing, often tap LIHTC as a primary source of financing.

One key issue in the LIHTC program is the siting of projects. LIHTC properties are often concentrated in racially segregated and low-income neighborhoods, raising a number of concerns about concentrating poverty and perpetuating segregation.³¹ The distribution of LIHTC properties, including when LIHTC resources are deployed to support the preservation or conversion of public housing communities, should be balanced in order to provide housing in areas of need while also expanding housing choices for residents in areas of opportunity.

Another fair housing issue involving LIHTC involves voucher access to LIHTC properties. Many LIHTC properties rent to no or very few families with vouchers even though LIHTC owners may not discriminate against voucher holders.³² PHAs should inform voucher holders that LIHTC properties are required to accept vouchers and should advocate for voucher holders (and with the housing finance agencies who award the credits) who are turned away. Additionally, PHAs should consider project-basing some of their vouchers in LIHTC projects located in high-opportunity areas in order to help increase access to these units for poor families.

PHAs should inform voucher holders that LIHTC properties are required to accept vouchers and should advocate for voucher holders (and with the housing finance agencies who award the credits) who are turned away.

B. Use of opportunity acquisition initiatives

The lack of affordable housing supply in many areas combined with the difficulty of using housing vouchers in many areas has led to the development of innovative strategies to acquire housing in high-opportunity neighborhoods. These site-based housing acquisition models can help provide pathways to mobility and expand access to opportunity areas. By doing so, they can complement housing mobility programs. The details of these models differ but largely set aside a certain number of units for voucher holders in mixed-income properties that have market-rate tenants as well.

31 Ampleman et al, Assessment Criteria for "Concerted Community Revitalization Plans": A Recommended Framework (2017), *available* at https://prrac.org/pdf/PRRAC_CCRP_recommendations_3_14_17.pdf

32 Will Fischer, Low-Income Housing Tax Credit Could do More to Expand Opportunity for Poor Families (2018), *available* at <https://www.cbpp.org/research/housing/low-income-housing-tax-credit-could-do-more-to-expand-opportunity-for-poor-families>

In the Seattle area, the King County Housing Authority has worked directly to acquire market-rate housing for its clients. In the Chicago area, a fund is providing funding for affordable housing developers who set aside 20% of units for project-based vouchers. Outside of Minneapolis, the National Housing Trust is placing voucher families with young children into a suburb with high quality schools. In Maryland, several PHAs have worked together with the Baltimore Regional Housing Partnership (which administers a highly successful mobility program) to pool project-based vouchers to encourage housing development in opportunity areas.

How can PHAs be involved in housing acquisition efforts that expand access to opportunity?

- PHAs should consider housing acquisition as a way to help provide additional units in high-opportunity areas. PHAs can partner with nonprofits, investment funds, and other initiatives that are seeking to acquire housing or may choose to acquire property directly (particularly if they have MTW flexibility with funding).
- Creating a pipeline between PHAs and specific properties can help to expand voucher access to high-opportunity areas. Additionally, housing acquisition strategies can help preserve affordable housing (particularly in high-cost housing markets) and create mixed-income properties that can help increase integration.



Credit: San Diego Housing Authority

6. Moving to Work (MTW) and AFFH

The Moving to Work (MTW) demonstration program gives certain PHAs greater flexibility in funding and policies. One of the statutory goals set forth by the program is to increase housing choices for low-income families. In practice, some of policy changes allowed under MTW can harm housing choice for low-income families. However, the flexibility afforded by MTW can also be used in a positive way by some agencies to help meet their fair housing goals.

PHAs participating in the MTW program should take care to scrutinize policy changes for fair housing impacts.

PHAs participating in the MTW program should take care to scrutinize policy changes for fair housing impacts. For example, they should ask:

How are rent reform policies affecting tenants?

- The MTW authorizing statute requires PHAs to implement rent reform policies in an effort to encourage employment and self-sufficiency. These policies change how much assisted households pay in rent. While some aspects of these policies have been positive, other PHAs have implemented rules that have resulted in tenants paying over 30% of their income in rent. PHAs should carefully examine the effects of these rent reforms on the housing choice of tenants.

Are time limits creating a burden for tenants?

- Time limit policies can be difficult for tenants and may not actually promote upward mobility. If time limits are enacted, they should be coupled with case management and supportive services along with exemptions.

Does the PHA have a work requirement?

- Work requirements are almost always difficult for tenants. There are sufficient studies from other federal benefit programs that refute the myth that work requirements are a tool to help people work. Work requirements should not be enacted.

Are SAFMRs being implemented?

- SAFMRs: MTW agencies that have rent reform policy approved by HUD are exempt from SAFMRs in mandatory regions. PHAs should consider whether their rent policies in these regions are overly restrictive.

How can MTW flexibility be used to advance fair housing goals?

- MTW can allow PHAs to implement policies that will promote housing choice and mobility. MTW PHAs should strongly consider adopting the following measures:
 - Voluntarily implementing SAFMRs or other payment standards that expand housing choice

- Project-basing vouchers in high-opportunity neighborhoods
- Creating mobility programs
- Targeting the use of project-based vouchers in high-opportunity neighborhoods, particularly in areas with strong housing markets
- Increasing landlord outreach and leasing incentives in low-poverty neighborhoods
- Providing financial incentives to families moving to high-opportunity areas

How should success in increasing housing choice be measured?

- Additionally, in order to accurately assess the success of their activities to “increase housing choices,” MTW PHAs should establish metrics and reporting practices. Relevant metrics will measure progress in promoting racial and economic deconcentration and access to housing in areas of opportunity, as well as measures of other resident outcomes. When relevant to the activity, metrics will track the number, location, and accompanying services of affordable, accessible units for persons with disabilities and/or supportive housing units.
- Neighborhood and resident demographic data: The inclusion of neighborhood demographics (including racial/ethnic data) in PHAs’ program evaluations will permit them to track the fair housing neighborhood impact of their MTW activities. Tenant-level data that includes racial and other characteristics—including disability status— will provide a means of assessing fair housing impacts on participating clients.
- Neighborhood characteristics: Information on neighborhood characteristics will be needed to assess activities’ success in promoting access to areas of opportunity. In particular, data on school poverty rates and performance data, neighborhood poverty rates, crime rates, and other available data may contribute to this analysis.
- Resident outcomes: PHAs should track the number and characteristics of families that take advantage of new housing choices provided by the agency, and may track other resident outcomes in order to document the impact of activities to increase housing choices. This may include both administrative data and resident surveys to collect information on school performance, health, and employment of household members.



Credit: Sacramento HRA

7. Other AFFH strategies

A. Language access

Meaningful language access is an integral part of fair housing compliance. Without meaningful language access, persons with limited English proficiency (LEP) face a variety of challenges when trying to access and maintain housing. Title VI of the Civil Rights Act prohibits national origin discrimination in federally funded programs. As part of a federal effort to comply with Title VI, HUD issued final guidance in 2007 that explains the obligations of federally assisted housing providers to implement policies to ensure that LEP persons have meaningful access to HUD programs. Under Title VI, PHAs must provide equal services to LEP persons, cannot unreasonably delay services, cannot require a LEP person to provide an interpreter, and cannot limit LEP persons from participation in a program. PHAs should have a regularly updated Language Access Plan that details which vital documents will be translated and into which languages. Furthermore, PHAs should have access to oral interpretation services, even for less widely spoken languages. For less common languages, PHAs should consider contracting with a language line service to ensure oral interpretation is generally available.

PHAs should have a regularly updated Language Access Plan that details which vital documents will be translated and into which languages.

The Fair Housing Act also prohibits housing providers from refusing to rent to non-English speakers simply because they do not speak English. Failure to comply with Title VI requirements may also be evidence of discrimination under the Fair Housing Act.³³

To assess the needs of LEP persons in a service area, PHAs can turn to multiple sources of data including the Census Bureau, local school systems, community organizations, non-profits that serve LEP populations, and state and local governments. Additionally, PHAs should survey residents.

Setting goals: implementing best practices

- Continually monitor and update the Language Access Plan at least annually to respond to changing language needs. Seek input from residents and others in the community.
- Have the language access plan easily available, online and in other languages consistent with the PHA's Language Access Plan.
- Provide written translation of vital documents and informational materials
 - Vital documents include but are not limited to intake forms, leases, hearing notices, eviction notices, notices of public hearings, and written notices of rights.
 - Informational materials include documents such as fair housing materials and first-time homebuyer guides.

33 HUD, Office of General Counsel Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency, 6 (Sept. 15, 2016).

Setting goals: implementing best practices, continued

- Identify the points of contact that the agency and staff may have with LEP persons.
- Develop partnerships to assist with language services and outreach to LEP persons.
- Train staff regularly on language access.
- Have clear policies on how to handle interpretation. Informal interpreters such as family or friends should not be used. If staffers cannot provide oral interpretation, have a plan to get interpretation through another method (e.g. telephone interpretation services).
- When conducting planning processes, do outreach through non-English media.

B. Reasonable accommodations

Persons with disabilities have been a protected class under the Fair Housing Act since 1988. Since then, housing providers must make reasonable physical modifications of certain premises, cannot refuse to make reasonable accommodations in housing rules and policies, and must include accessibility features in new multifamily buildings. Other laws requiring reasonable accommodations include the Americans with Disabilities Act (ADA), the Rehabilitation Act of 1973, and the California Fair Employment and Housing Act. The ADA covers PHAs while the Rehabilitation Act extends beyond PHAs to cover housing providers receiving federal assistance. California has promulgated detailed fair housing regulations regarding reasonable accommodations.³⁴

The way that a PHA handles a reasonable accommodation request is critical in determining how persons with disabilities obtain housing that they can fully enjoy and meets their needs.

The way that a PHA handles a reasonable accommodation request is critical in determining how persons with disabilities obtain housing that they can fully enjoy and meets their needs. A housing provider must grant a request for reasonable accommodation if it is necessary and does not create an undue financial and administrative burden. To help fulfill their requirements to grant reasonable requests, PHAs should evaluate their ACOP and administrative plan for the following:

- Does the plan have procedures to inform applicants, participants, and tenants of their right to request a reasonable accommodation?
- Does the plan have language regarding the information that can and cannot be requested to verify the need for a reasonable accommodation?
- Does the plan clarify who can provide a verification of the disability and need for a reasonable accommodation?

³⁴ 2 C.C.R. § 12176 *et seq.*

- Does the plan specify that a person who is entitled to a reasonable accommodation can get on an otherwise inaccessible waitlist for admission to housing?
- Does the plan have guidance regarding extensions for voucher holders to locate a unit as a reasonable accommodation?
- Does the plan have guidance regarding exceptions to the payment standard as a reasonable accommodation?
- Does the plan address the addition of a live-in aide as a reasonable accommodation?
- Does the plan have guidance regarding exceptions to portability requirements as a reasonable accommodation of a disability?

C. Violence Against Women Act

The Violence Against Women Act (VAWA) provides protection to survivors of domestic violence, dating violence, sexual assault, and stalking in federally assisted housing programs, including public housing and the Housing Choice Voucher program. These protections include anti-discrimination protections, notification requirements, and a requirement that the PHA have an emergency transfer plan in place. To ensure that compliance with obligations under VAWA, PHAs should consider the following:

- Is VAWA included among the legal authorities cited by the PHA when describing nondiscrimination requirements?
- Has the PHA considered if it can offer an admissions preference to survivor applicants covered by VAWA?
- Do the ACOP and administrative plan include language requiring that applicants receive a notice of VAWA rights?
- Do the ACOP and administrative plan include language explaining the factors that a PHA cannot use as a basis to deny assistance to or evict a survivor?
- Do the ACOP and administrative plan include language on the types of documentation a survivor can use to prove eligibility to invoke VAWA rights?
- Do the ACOP and administrative plan include the fact that the survivor gets to choose what type of documentation to provide (with limitations in cases of conflicting information)?
- Do the ACOP and administrative plan include a statement acknowledging that — in instances of family break-ups that are a result of domestic violence, dating violence, sexual assault, or stalking — the PHA must ensure that the victim retains assistance?
- Do the ACOP and administrative plan list VAWA Emergency Transfers as a type of emergency transfer and is there an operational VAWA Emergency Transfer Plan that addresses local needs and circumstances and gives survivors a strong chance of securing housing the survivor considers to be safe in a reasonably short period of time?
- Has the PHA developed partnerships with local domestic violence, sexual assault, stalking, dating violence, human trafficking, and culturally-specific organizations, including having PHA staff trained by these organizations?



Hope VI. Credit: San Francisco Housing Authority

- Is there a copy of the PHA's VAWA Emergency Transfer Plan available at all public housing developments where residents can see it and posted on the PHAs website?
- Do the ACOP and administrative plan include language clarifying that VAWA self-petitioners are eligible for the public housing and/or Section 8 HCV programs?
- Do the ACOP and administrative plan include language on VAWA's confidentiality requirements?

Appendices

Appendix A: PHAs in California

Appendix B: Upcoming Housing Element due dates in 2021

Appendix C: California Fair Employment and Housing Act vs. the federal Fair Housing Act

Appendix D: California Source of Income Discrimination law

Appendix A: PHAs in California

PHA name	PHA type	HCVs (2020)
Berkeley Housing Authority	HCV and Mod Rehab	1,477
Carlsbad Housing & Neighborhood Services	HCV only	524
Cdc of National City	HCV only	1,071
City of Alameda Housing Authority	HCV and Mod Rehab	1,425
City of Anaheim Housing Authority	HCV only	5,820
City of Benicia Hsg Auth	Public Housing and HCV	313
City of Compton Housing Authority	HCV only	662
City of Eureka Housing Authority	Public Housing only	0
City of Fairfield	HCV only	804
City of Long Beach Housing Authority	HCV only	6,235
City of Oceanside Community Development Comm	HCV only	1,514
City of Pasadena Housing Department	HCV only	1,201
City of Pittsburg Hsg Auth	HCV only	959
City of Roseville	HCV only	609
City of Sacramento Housing Authority	Public Housing and Mod Rehab	0
City of Santa Rosa	HCV only	1,899
City of South San Francisco Housing Authority	Public Housing only	0
City of Vacaville	HCV only	1,001
City of Wasco Housing Authority	Public Housing only	0
County of Butte Hsg Auth	Public Housing and HCV	2,027
County of El Dorado Housing Authority	HCV only	333
County of Humboldt Hsg Auth	HCV only	930
County of Merced Housing Authority	Public Housing and HCV	2,437
County of Plumas Housing Authority	Public Housing and HCV	618
County of Sacramento Housing Authority	Public Housing and HCV	11,505
County of Shasta Hsg Auth	HCV only	851
County of Solano Hsg Auth	HCV only	230
County of Sonoma	HCV only	2,524
Crescent City Hsg Auth	HCV only	590
Culver City Housing Authority	HCV only	95
Hawthorne Housing	HCV only	816
Housing Auth. of the County of San Joaquin	Public Housing and HCV	4,314
Housing Authority City of Fresno	Public Housing and HCV	7,207
Housing Authority of County of Marin	Public Housing and HCV	2,099

PHA name	PHA type	HCVs (2020)
Housing Authority of Fresno County	Public Housing and HCV	5,965
Housing Authority of the City & County of Sf	Public Housing, HCV, and Mod Rehab	11,814
Housing Authority of the City of Baldwin Park	Public Housing and HCV	425
Housing Authority of the City of Burbank	HCV only	871
Housing Authority of the City of Calexico	Public Housing and HCV	197
Housing Authority of the City of Encinitas	HCV only	111
Housing Authority of the City of Garden Grove	HCV only	2,520
Housing Authority of the City of Glendale	HCV only	2,809
Housing Authority of the City of Hawaiian Gardens	HCV only	103
Housing Authority of the City of Inglewood	HCV only	1,231
Housing Authority of the City of Lomita	Public Housing only	0
Housing Authority of the City of Los Angeles	Public Housing, HCV, and Mod Rehab	42,674
Housing Authority of the City of Madera	Public Housing and HCV	806
Housing Authority of the City of Napa	HCV only	1,093
Housing Authority of the City of Needles	Public Housing and HCV	24
Housing Authority of the City of Norwalk	HCV only	637
Housing Authority of the City of Oxnard	Public Housing and HCV	1,618
Housing Authority of the City of Pomona	HCV only	953
Housing Authority of the City of Port Hueneme	Public Housing and HCV	247
Housing Authority of the City of Redding	HCV only	1,474
Housing Authority of the City of Redondo Beach	HCV only	452
Housing Authority of the City of Richmond	Public Housing and HCV	1,657
Housing Authority of the City of Riverbank	Public Housing only	0
Housing Authority of the City of San Buenaventura	Public Housing and HCV	1,440
Housing Authority of the City of San Jose	HCV and Mod Rehab	5,777
Housing Authority of the City of San Luis Obispo	Public Housing and HCV	2,201
Housing Authority of the City of Santa Ana	HCV only	1,699
Housing Authority of the City of Santa Barbara	HCV only	2,492
Housing Authority of the City of Santa Monica	HCV only	1,031
Housing Authority of the City of Santa Paula	HCV only	562
Housing Authority of the City of South Gate	HCV only	438
Housing Authority of the City of Torrance	HCV only	529
Housing Authority of the City of Vallejo	HCV only	1,841
Housing Authority of the County Contra Costa	Public Housing and HCV	6,465

PHA name	PHA type	HCVs (2020)
Housing Authority of the County of Alameda	HCV and Mod Rehab	6,128
Housing Authority of the County of Kern	Public Housing and HCV	3,672
Housing Authority of the County of Los Angeles	Public Housing, HCV, and Mod Rehab	22,542
Housing Authority of the County of Monterey	HCV only	3,267
Housing Authority of the County of Riverside	HCV and Mod Rehab	8,579
Housing Authority of the County of San Bernardino	Public Housing and HCV	10,135
Housing Authority of the County of San Diego	Public Housing, HCV, and Mod Rehab	9,806
Housing Authority of the County of San Mateo	HCV only	4,357
Housing Authority of the County of Santa Barbara	Public Housing and HCV	3,707
Housing Authority of the County of Stanislaus	Public Housing and HCV	4,720
Housing Authority of the County of Ventura	Public Housing and HCV	2,379
Housing Authority of the County of Yolo	Public Housing and HCV	1,424
Hsg Auth of the City of Livermore	Public Housing and HCV	483
Imperial Valley Housing Authority	Public Housing and HCV	1,672
Kings County Housing Auth	Public Housing and HCV	595
Lake County Housing Commission	HCV only	261
Mendocino County	HCV only	858
Oakland Housing Authority	Public Housing, HCV, and Mod Rehab	11,859
Orange County Housing Authority	HCV only	11,506
Pico Rivera Housing Assistance Agency	HCV only	390
Placer County Housing Authority	HCV only	301
Regional Housing Authority	Public Housing and HCV	1,636
San Diego Housing Commission	Public Housing, HCV, and Mod Rehab	14,408
Santa Clara County Housing Authority	Public Housing, HCV, and Mod Rehab	10,067
Santa Cruz County Hsg Auth	Public Housing, HCV, and Mod Rehab	4,620
Suisun City Housing Authority	HCV only	273
Tulare County Housing Authority	Public Housing and HCV	2,702

Appendix B: Upcoming Housing Element due dates in 2021

Jurisdictions submitting Housing Elements in 2021 (and corresponding PHAs)

The CA Department of Housing and Community Development has a schedule for when its jurisdictions will need to submit their updated Housing Elements, available here. The first jurisdictions tasked with submitting an Assessment of Fair Housing are those with Housing Elements due in 2021. Set out below are these 2021 jurisdictions and the corresponding PHAs:

Jurisdiction	Due Date	Associated PHAs
Amador County (and the five cities within county) ^[1]	Jan. 31, 2021 (estimated)	
Inyo County (and the one city within county) ^[2]	Feb. 15, 2021 (estimated)	
San Diego Association of all Governments (San Diego County and the 18 cities within county) ^[3]	April 15, 2021 (actual)	Carlsbad Housing & Neighborhood Services, Housing Authority of the City of Encinitas, CDC of National City, City of Oceanside Community Development Commission, Housing Authority of the County of San Diego, San Diego Housing Commission
Glenn County (and two cities within county) ^[4]	April 15, 2021 (estimated)	
Sacramento Area Council of Governments (six counties [El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba] and 23 cities within the six counties) ^[5]	August 31, 2021 (estimated)	County of El Dorado Housing Authority, Placer County Housing Authority, City of Roseville, City of Sacramento Housing Authority, County of Sacramento Housing Authority, Regional Housing Authority, Housing Authority of the County of Yolo

Jurisdiction	Due Date	Associated PHAs
Southern California Association of Governments (six counties [Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura] and 191 cities within the six counties)	Oct. 15, 2021 (estimated)	(all PHAs in the six-county region)
Siskiyou (and the nine cities within county) ^[6]	Dec. 15, 2021 (estimated)	
Del Norte County (and its one incorporated city, Crescent City)	May 15, 2022 (estimated)	Crescent City Housing Authority
Butte County (and the five cities within the county)	June 15, 2022 (estimated)	Housing Authority of the County of Butte, Oroville Housing Authority, City of Chico Housing Division, Town of Paradise Housing Department

[1] Amador City, Ione, Jackson, Plymouth, and Sutter Creek, CA.

[2] Bishop, CA.

[3] Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, and Vista, CA.

[4] Orland and Willows, CA.

[5] Placerville, South Lake Tahoe, Auburn, Colfax, Lincoln, Loomis, Rocklin, Roseville, Citrus Heights, Elk Grove, Folsom, Galt, Isleton, Rancho Cordova, Sacramento, Live Oak, Yuba City, Davis, West Sacramento, Winters, Woodland, Marysville, and Wheatland, CA.

[6] Dorris, Dunsmuir, Etna, Fort Jones, Montague, Mount Shasta, Tulelake, Weed, and Yreka, CA.

Appendix C: California Fair Employment and Housing Act vs. the federal Fair Housing Act

Protected classes

California includes in its list of protected classes: race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status, arbitrary characteristics protected by the Unruh Civil Rights Act and developed in case law, all other classes of people protected from discrimination under federal or state fair housing laws, and all individuals perceived to be a member of any of the preceding classes or associated with any of the preceding classes. See Cal. Code Regs. Tit. 2, § 12005(y) (2019). Veteran status or military status is also a protected class in California under the Fair Employment and Housing Act, but the state's fair housing regulations have not been updated to reflect this addition.

Federal fair housing laws prohibit discrimination based on: race, color, national origin, religion, sex, familial status, and disability. See 42 USC § 3604 (2018).

Class	Covered by FEHA and CA Fair Housing Regulations	Covered by FHA, HUD Fair Housing Regulations, and Interpretations
Age	Yes	No
Ancestry	Yes	No
Citizenship	Yes	No
Color	Yes	Yes
Disability	Yes	Yes
Familial Status	Yes	Yes
Gender identity	Yes	Not explicitly, but HUD interprets sex discrimination to include gender identity discrimination. ³⁵
Gender expression	Yes	Not explicitly, but HUD interprets sex discrimination to include gender identity discrimination.
Genetic information	Yes	No
Immigration status	Yes	No

35 Jeanine M. Warden, "Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act," (Feb. 11, 2021).

Class	Covered by FEHA and CA Fair Housing Regulations	Covered by FHA, HUD Fair Housing Regulations, and Interpretations
Marital status	Yes	No (Although the HUD Equal Access Rule, issued in 2012, requires that housing assisted by HUD or subject to a mortgage issued by the Federal Housing Administration shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status. See 24 CFR § 5.105(a)(2).)
Medical condition	Yes	There is likely overlap with disability protections under the FHA.
National origin	Yes	Yes
Primary language	Yes	No (Although HUD has issued guidance suggesting that “The [FHA] ... prohibits housing providers from using LEP selectively based on a protected class or as a pretext for discrimination because of a protected class. The Act also prohibits housing providers from using LEP in a way that causes an unjustified discriminatory effect.” ³⁶)
Race	Yes	Yes
Religion	Yes	Yes
Sex	Yes	Yes
Sexual orientation	Yes	Not explicitly, but HUD interprets sex discrimination to include gender identity discrimination.
Source of income	Yes	No
Arbitrary discrimination	Yes	No
Individuals perceived to be members of a protected class	Yes	The Fair Housing Act defines disability ³⁷ as including “being regarded as having such an impairment.” 42 U.S.C. § 3602(h)(3).
Individuals associated with protected class	Yes	“Fair Housing Act plaintiffs are permitted to complain about discrimination directed against others so long as that discrimination has caused the plaintiff some personalized injury.” ³⁸

36 See HUD, Office of General Counsel Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency (Sept. 15, 2016).

37 The statutory term used in Section 3602 is “handicap.”

38 Robert G. Schwemm, *Housing Discrimination Law and Litigation* § 12:A:3.

All Sources:

42 USC § 3602 (2018).

42 USC § 3604 (2018).

Cal. Code Regs. Tit. 2, § 12005 (2019).

Cal. Gov't Code § 11135 (West 2019) (No member of a protected class in California can be subjected to discrimination under any program or activity conducted, operated, or administered by any state agency, funded by the state, or receiving any financial assistance from the state).

Cal. Gov't Code § 12940 (West 2019).

Cal. Gov't Code § 12955(C) (West 2019).

Cal. Gov't Code § 12927(c)(1) (West 2019).

Robert G. Schwemm, *Housing Discrimination Law and Litigation* §§ 11:1; 11E:(1)-(8), 14:2-3; 18:8; 30:1-3 (2018).

Appendix D: California Senate Bill 329 (2019) (Source of Income Protections)

Senate Bill No. 329

CHAPTER 600

An act to amend Sections 12927 and 12955 of the Government Code, relating to discrimination.

[Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 329, Mitchell. Discrimination: housing: source of income.

Existing law, the California Fair Employment and Housing Act, prohibits housing discrimination, including discrimination through public or private land use practices, decisions, or authorizations, based on specified personal characteristics, including source of income. Existing law defines the term “source of income” for purposes of the provisions relating to discrimination in housing accommodations described above, to mean lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant. Existing law specifies that for the purposes of this definition, a landlord is not considered a representative of a tenant.

This bill would instead define the term for purposes of those provisions, to mean verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance and housing subsidies, as specified. The bill would also specify that for the purposes of this definition, a housing owner is not considered a representative of a tenant.

This bill would incorporate additional changes to Section 12927 of the Government Code proposed by AB 1497 and SB 222 to be operative only if this bill and AB 1497 or SB 222 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 12955 of the Government Code proposed by SB 222 to be operative only if this bill and SB 222 are enacted and this bill is enacted last.

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature in enacting this act to provide a participant in a housing voucher program an opportunity to receive a thorough and fair vetting when they seek housing.

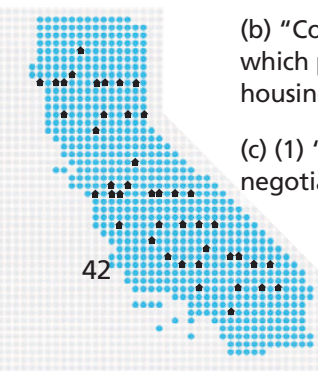
SEC. 2. Section 12927 of the Government Code is amended to read:

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) “Affirmative actions” means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(b) “Conciliation council” means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) (1) “Discrimination” includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing



accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with those housing accommodations; includes harassment in connection with those housing accommodations; includes the cancellation or termination of a sale or rental agreement; includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.

(2) "Discrimination" does not include either of the following:

(A) Refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household, and the owner complies with subdivision (c) of Section 12955, which prohibits discriminatory notices, statements, and advertisements.

(B) Where the sharing of living areas in a single dwelling unit is involved, the use of words stating or tending to imply that the housing being advertised is available only to persons of one sex.

(d) "Housing accommodation" means any building, structure, or portion thereof that is occupied as, or intended for occupancy as, a residence by one or more families and any vacant land that is offered for sale or lease for the construction thereon of any building, structure, or portion thereof intended to be so occupied.

(e) "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesperson, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(f) "Person" includes all individuals and entities that are described in Section 3602(d) of Title 42 of the United States Code, and in the definition of "owner" in subdivision (e), and all institutional third parties, including the Federal Home Loan Mortgage Corporation.

(g) "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.

(h) "Real estate-related transactions" include any of the following:

(1) The making or purchasing of loans or providing other financial assistance that is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or that is secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(3) The use of territorial underwriting requirements, for the purpose of requiring a borrower in a specific geographic area to obtain earthquake insurance, required by an institutional third party on a loan secured by residential real property.

(i) "Source of income" means lawful, verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec.

1437f). For the purposes of this definition, a housing owner or landlord is not considered a representative of a tenant.

SEC. 2.1. Section 12927 of the Government Code is amended to read:

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) “Affirmative actions” means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(b) “Conciliation council” means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) (1) “Discrimination” includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with those housing accommodations; includes harassment in connection with those housing accommodations; includes the cancellation or termination of a sale or rental agreement; includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter’s agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.

(2) “Discrimination” does not include either of the following:

(A) Refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household, and the owner complies with subdivision (c) of Section 12955, which prohibits discriminatory notices, statements, and advertisements.

(B) Where the sharing of living areas in a single dwelling unit is involved, the use of words stating or tending to imply that the housing being advertised is available only to persons of one sex.

(d) “Housing accommodation” means any building, structure, or portion thereof that is occupied as, or intended for occupancy as, a residence by one or more families and any vacant land that is offered for sale or lease for the construction thereon of any building, structure, or portion thereof intended to be so occupied. “Housing accommodation” includes a building, structure, or portion thereof that is occupied, or intended to be occupied, pursuant to a transaction facilitated by a hosting platform, as defined in Section 22590 of the Business and Professions Code.

(e) “Owner” includes the lessee, sublessee, assignee, managing agent, real estate broker or salesperson, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(f) “Person” includes all individuals and entities that are described in Section 3602(d) of Title 42 of the United States Code, and in the definition of “owner” in subdivision (e), and all institutional third parties, including the Federal Home Loan Mortgage Corporation.

(g) “Aggrieved person” includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.

(h) “Real estate-related transactions” include any of the following:

(1) The making or purchasing of loans or providing other financial assistance that is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or that is secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(3) The use of territorial underwriting requirements, for the purpose of requiring a borrower in a specific geographic area to obtain earthquake insurance, required by an institutional third party on a loan secured by residential real property.

(i) “Source of income” means lawful, verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f). For the purposes of this definition, a housing owner or landlord is not considered a representative of a tenant.

SEC. 2.2. Section 12927 of the Government Code is amended to read:

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) “Affirmative actions” means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(b) “Conciliation council” means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) (1) “Discrimination” includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with those housing accommodations; includes harassment in connection with those housing accommodations; includes the cancellation or termination of a sale or rental agreement; includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter’s agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.

(2) “Discrimination” does not include either of the following:

(A) Refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household, and the owner complies with subdivision (c) of Section 12955, which prohibits discriminatory notices, statements, and advertisements.

(B) Where the sharing of living areas in a single dwelling unit is involved, the use of words stating or tending to imply that the housing being advertised is available only to persons of one sex.

(d) "Housing accommodation" means any building, structure, or portion thereof that is occupied as, or intended for occupancy as, a residence by one or more families and any vacant land that is offered for sale or lease for the construction thereon of any building, structure, or portion thereof intended to be so occupied.

(e) "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesperson, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(f) "Person" includes all individuals and entities that are described in Section 3602(d) of Title 42 of the United States Code, and in the definition of "owner" in subdivision (e), and all institutional third parties, including the Federal Home Loan Mortgage Corporation.

(g) "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.

(h) "Real estate-related transactions" include any of the following:

(1) The making or purchasing of loans or providing other financial assistance that is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or that is secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(3) The use of territorial underwriting requirements, for the purpose of requiring a borrower in a specific geographic area to obtain earthquake insurance, required by an institutional third party on a loan secured by residential real property.

(i) "Source of income" means lawful, verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f). "Source of income" includes a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher. For the purposes of this definition, a housing owner or landlord is not considered a representative of a tenant unless the source of income is a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher.

SEC. 2.3. Section 12927 of the Government Code is amended to read:

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) "Affirmative actions" means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(b) "Conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) (1) "Discrimination" includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of

inferior terms, conditions, privileges, facilities, or services in connection with those housing accommodations; includes harassment in connection with those housing accommodations; includes the cancellation or termination of a sale or rental agreement; includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.

(2) "Discrimination" does not include either of the following:

(A) Refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household, and the owner complies with subdivision (c) of Section 12955, which prohibits discriminatory notices, statements, and advertisements.

(B) Where the sharing of living areas in a single dwelling unit is involved, the use of words stating or tending to imply that the housing being advertised is available only to persons of one sex.

(d) "Housing accommodation" means any building, structure, or portion thereof that is occupied as, or intended for occupancy as, a residence by one or more families and any vacant land that is offered for sale or lease for the construction thereon of any building, structure, or portion thereof intended to be so occupied. "Housing accommodation" includes a building, structure, or portion thereof that is occupied, or intended to be occupied, pursuant to a transaction facilitated by a hosting platform, as defined in Section 22590 of the Business and Professions Code.

(e) "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesperson, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(f) "Person" includes all individuals and entities that are described in Section 3602(d) of Title 42 of the United States Code, and in the definition of "owner" in subdivision (e), and all institutional third parties, including the Federal Home Loan Mortgage Corporation.

(g) "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.

(h) "Real estate-related transactions" include any of the following:

(1) The making or purchasing of loans or providing other financial assistance that is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or that is secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(3) The use of territorial underwriting requirements, for the purpose of requiring a borrower in a specific geographic area to obtain earthquake insurance, required by an institutional third party on a loan secured by residential real property.

(i) "Source of income" means lawful, verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec.

1437f). “Source of income” includes a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher. For the purposes of this definition, a housing owner or landlord is not considered a representative of a tenant unless the source of income is a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher.

SEC. 3. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, or genetic information of any person seeking to purchase, rent, or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information or an intention to make that preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, gender, gender identity, gender expression, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, genetic information, source of income, or on any other basis prohibited by that section. Selection preferences based on age, imposed in connection with a federally approved housing program, do not constitute age discrimination in housing.

(e) For any person, bank, mortgage company, or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner’s dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, source of income, familial status, disability, or genetic information.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, or national origin.

(l) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void.

(m) As used in this section, “race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information,” includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(o) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(p) (1) For the purposes of this section, “source of income” means lawful, verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f). For the purposes of this definition, a housing owner or landlord is not considered a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

SEC. 3.5. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, veteran or military status, or genetic information of any person seeking to purchase, rent, or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of

income, disability, veteran or military status, or genetic information or an intention to make that preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, gender, gender identity, gender expression, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, genetic information, source of income, veteran or military status, or on any other basis prohibited by that section. Selection preferences based on age, imposed in connection with a federally approved housing program, do not constitute age discrimination in housing.

(e) For any person, bank, mortgage company, or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, source of income, familial status, veteran or military status, or national origin.

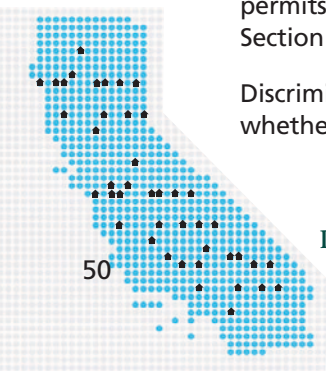
(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, source of income, familial status, disability, veteran or military status, or genetic information.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, familial status, source of income, veteran or military status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, veteran or military status, or national origin.

(l) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, veteran or military status, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void.



(m) As used in this section, “race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information,” includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(o) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(p) (1) For the purposes of this section, “source of income” means lawful, verifiable income paid directly to a tenant or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f). “Source of income” includes a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher. For the purposes of this definition, a housing owner or landlord is not considered a representative of a tenant unless the source of income is a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

SEC. 4. (a) Section 2.1 of this bill incorporates amendments to Section 12927 of the Government Code proposed by both this bill and Assembly Bill 1497. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 12927 of the Government Code, (3) Senate Bill 222 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 1497, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 12927 of the Government Code proposed by both this bill and Senate Bill 222. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 12927 of the Government Code, (3) Assembly Bill 1497 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 222, in which case Sections 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 12927 of the Government Code proposed by this bill, Senate Bill 222, and Assembly Bill 1497. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2020, (2) all three bills amend Section 12927 of the Government Code, and (3) this bill is enacted after Senate Bill 222 and Assembly Bill 1497, in which case Sections 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 12955 of the Government Code proposed by both this bill and Senate Bill 222. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 12955 of the Government Code, and (3) this bill is enacted after Senate Bill 222, in which case Section 3 of this bill shall not become operative.

For the full text of Senate Bill 329 see

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB329



Credit: San Francisco Housing Authority

PRRAC
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Research Action Council*

