

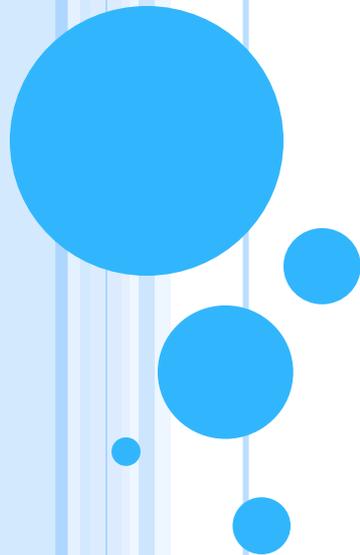
***FAIR HOUSING TOOLS
REASONABLE ACCOMMODATION AND
REASONABLE MODIFICATION***

**California Community
Transition**

September 24, 2014

Presented by:

Urshella Starr



GOTO MEETING LOGISTICS

Join the meeting at:

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Dial in via the phone number on the screen and use the access code:

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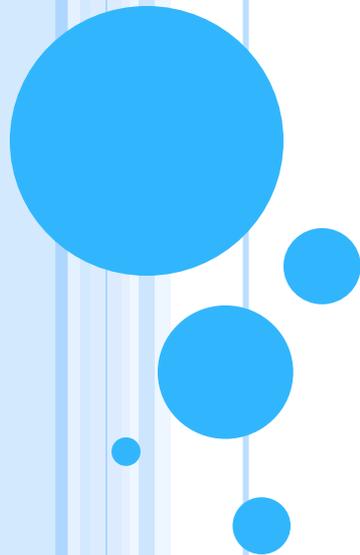
CCT HOUSING SPECIALIST/TRANSITION COORDINATORS TRAINING

Series of 4 1-hour trainings

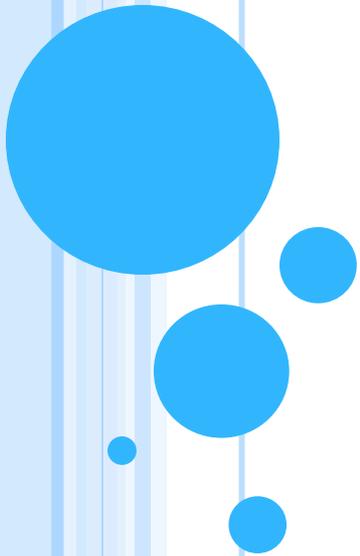
1. Affordable Housing Delivery System
2. Fair Housing Tools: Reasonable Accommodation and Reasonable Modification (9/24)
3. Multifamily and LIHTC properties (10/1)
4. Engaging Your PHA to Increase Access to Resources (10/08)

OVERVIEW

- **Federal Fair Housing laws**
- **Basic Fair Housing Concepts**
 - **Reasonable Accommodation**
 - **Reasonable Modification**



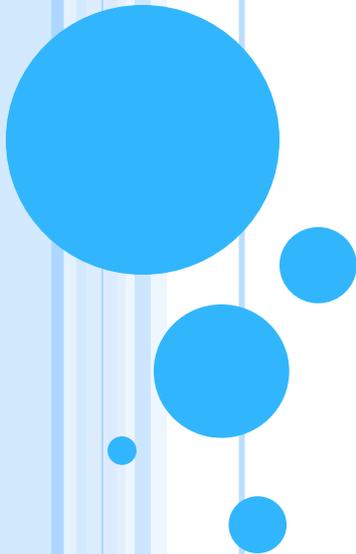
Overview of Fair Housing Laws



WHAT IS HOUSING DISCRIMINATION?

Not allowing an individual or family an equal opportunity to participate in a program, service or activity because of a protected characteristic:

- Race
- Color
- Religion
- Sex
- national origin and
- disability



EXAMPLES OF DISCRIMINATION

- **Refuse to rent to someone ONLY because they have developmental disability**
- **Charge someone a higher rent or security deposit because of their disability.**
 - e.g., when utilities are included, charge a person who uses a power wheelchair and other equipment a higher rent
- **Refuse to allow them to use the residential amenities.**
 - e.g., refuse to allow someone with HIV/AIDS to use the pool or laundry facilities
- **Denying eligibility to a supportive housing program because the applicant is blind**

WHAT IS HOUSING DISCRIMINATION? (CONT.)

Discrimination = Basing decisions about a specific individual because of stereotyped – generally incorrect - beliefs about a characteristic of the class or group of people

Examples:

- **People with psychiatric disabilities are violent**
- **People who have a history of substance abuse will use drugs**
- **Can “catch” HIV/AIDS by ----**

Laws try to protect individuals who are at risk of such stereotyping

FEDERAL FAIR HOUSING ACT

- **Housing Discrimination against people with disabilities – because of their disability – has been prohibited by the federal government since 1988 with passage of Federal Fair Housing Amendments Act**
- **Expanded pre-existing fair housing in terms to include protections for people with disabilities**
- **Prohibits discrimination because of disability in terms, condition, privileges in sale or rental of housing**
- **Covers all public and private housing except owner-occupied housing with four or fewer units**

SECTION 504 OF THE REHABILITATION ACT OF 1973

- **HUD issued its regulations in 1987**
- **People with disabilities in programs and activities receiving federal funds cannot be excluded because of their disability**
- **Requirements of covered programs and entities are more far reaching**

AMERICANS WITH DISABILITIES ACT TITLES II AND III

- The ADA passed in 1990
- Title II of the ADA extended Section 504 to all activities of public entities including state and local governments
- Title III prohibits discrimination against people with disabilities in places of public accommodation: hotels, motels, day care centers, homeless shelters and others
- Places of public accommodation include the rental office in housing, community rooms, dining room and other areas of a residential development that are rented out or open for use by public

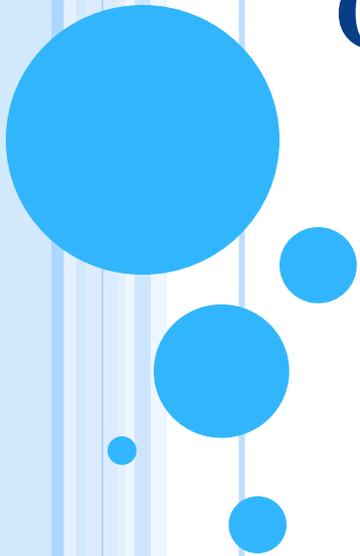
FAIR EMPLOYMENT AND HOUSING ACT

- **California state fair housing law**
- **Like FFHA but also prohibits discrimination based on marital status and sexual orientation**
- **California's definition of disability is broader than the federal definition**
“substantially limits” v. “limits”

ADDITIONAL INFORMATION ABOUT FAIR HOUSING LAWS

- http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws
- http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws
- <http://www.dfeh.ca.gov/>

Basic Fair Housing Concepts



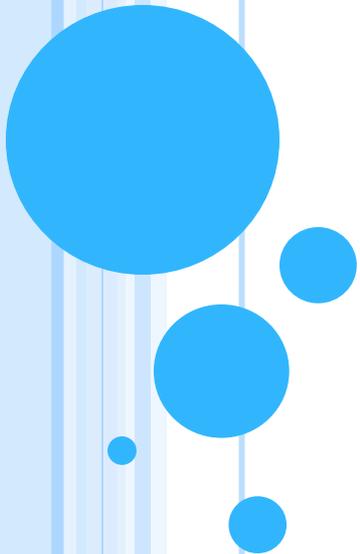
WHO IS DISABLED? WHO IS COVERED OR PROTECTED BY THESE LAWS?

- **Has a physical or mental impairment that [substantially] limits one or more major life activities**
- **Has a record of such impairment (history of)**
- **Is regarded as having such impairment**

Examples: alcoholism, HIV/AIDS, emotional disorder, drug addiction, developmental disability, cerebral palsy, brain injury, cancer, hearing disability, visual disability

WHAT ABOUT ILLEGAL DRUG AND SUBSTANCE ABUSE??

- All fair housing laws exclude people who are currently using illegal drugs from protections
- Individuals who have a history of using illegal drugs but are not currently using such are covered by these laws



REASONABLE ACCOMMODATION

- A reasonable accommodation is a reasonable change to rules, policies, practices and procedures if needed to enable a person with disabilities to have an equal opportunity to use and enjoy the facilities or programs.

Example:

- Housing development has a no pets rule.
- The rule should be modified to allow a person who uses a service or guide dog or a companion animal to live in the development.

REASONABLE MODIFICATIONS

- A reasonable modification is a change to the physical development or unit to allow a person with a disability to reside there.

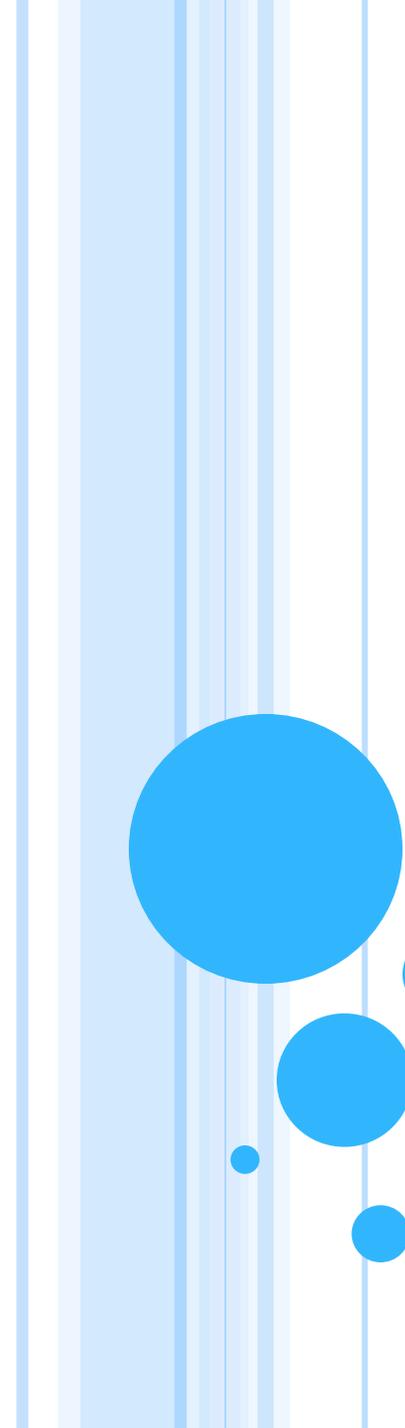
Example

- The main entrance to a 100 unit property is very heavy glass that cannot be opened by someone using a wheelchair.
An electric door opener might be a reasonable modification.

WHAT IS REASONABLE?

- **Accommodation or modifications do not have to be made if they:**
- **Result in a fundamental alteration to the program**
- **Pose an undue finance and administrative burden**

Whether something is reasonable or not depends on the specific situation at the time the need for the accommodation or modification has been made.



Reasonable Accommodations - Examples

APPLICATION PROCESS: EXAMPLES OF REASONABLE ACCOMMODATIONS

- Providing applications in Braille, large print, and alternative formats
- Providing assistance to complete the application
- Allowing applications to be dropped off by a friend, family member, advocate, etc.
- Allowing applications to be mailed or faxed
- Visiting the applicant's home in order to complete an application
- Allowing applicants to submit an application online or receive virtual assistance (e.g. Skype)
- Allowing additional time to submit an application

SCREENING CRITERIA

- **Mandatory lifetime ban in most federally funded housing programs including Housing Choice Vouchers to:**
 - **persons convicted of manufacturing methamphetamines and/or**
 - **registered sex offenders**

SCREENING

Housing providers may screen (and deny) for:

- Past eviction from public housing
- Drug-related criminal activity or violent criminal activity (whether convicted or not)
- Fraud, bribery, or any other corrupt or criminal act related to any federal housing program
- Owing money to a PHA

SCREENING

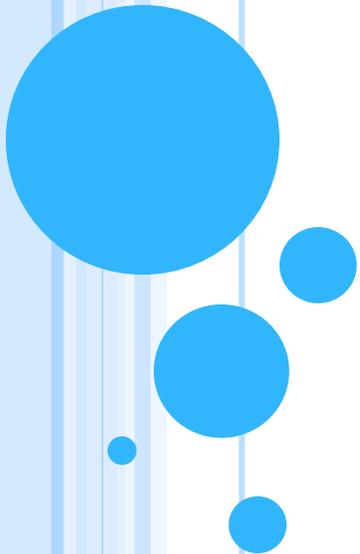
Housing providers may screen (and deny) for:

- Illegal use of controlled substances within one year unless applicant can demonstrate that s/he:
 - Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and
 - Is recovering, or has recovered from, such addiction and does not currently use or possess controlled substances. The PHA may require applicant to submit evidence of participation in, or successful completion of, a treatment program

SCREENING: REASONABLE ACCOMMODATION EXAMPLES

As a reasonable accommodation:

- PHA may consider the severity of crime, extent of culpability, evidence of rehabilitation, mitigating circumstances related to disability of family member
- Allow for extra time to gather documentation for verification and screening purposes

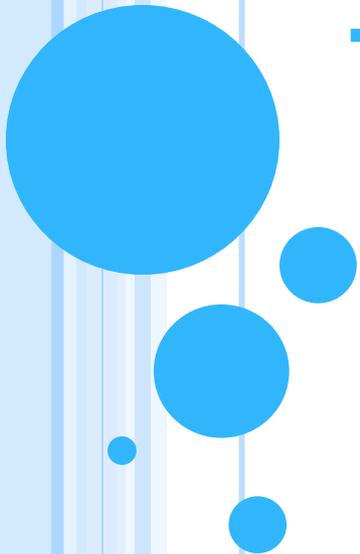


WAITING LISTS

- **Often long and/or closed**
- **Names added to the list**
 - Chronologically
 - Random or “lottery”
- **Waiting lists are updated regularly and some names are deleted from the list if the applicant does not respond in a timely manner**

WAITING LIST: REASONABLE ACCOMMODATION EXAMPLES

- **Having application reinstated to the waiting list**
- **Requesting written documentation of waiting list status**



HOUSING CHOICE VOUCHERS: REASONABLE ACCOMMODATION EXAMPLES

- Increased payment standard
- Increased utility allowance
- Increased time to identify unit
- Extra bedroom for live-in aide or disability-related equipment

REASONABLE MODIFICATIONS

Owners:

- **Must allow tenant to make reasonable modifications**
- **May require tenant to restore unit upon move-out**
- **May require assurances that work be done in a professional manner**
- **May negotiate funds in escrow account for restoration**
- **May not require increased security deposit**

WHO PAYS FOR MODIFICATIONS?

- **Any housing that receives federal funds, including PHAs and assisted housing providers, may be required to pay for certain physical modifications**

- **Physical modification must be “reasonable”**
 - Is installation of flasher for person who cannot hear generally reasonable?
 - In what situations might installation of a roll-in shower be reasonable?

PRIVATE OWNERS

- **Private owner does NOT have to pay for modifications –**
 - Unless state or local law requires.
- **Owners accepting tenant-based Housing Choice Vouchers are NOT covered by Section 504 as a result would not have to pay for modifications**
 - However, HCV participant may request increased payment standard to pay for some costs if Owner agrees to make and pay for modifications

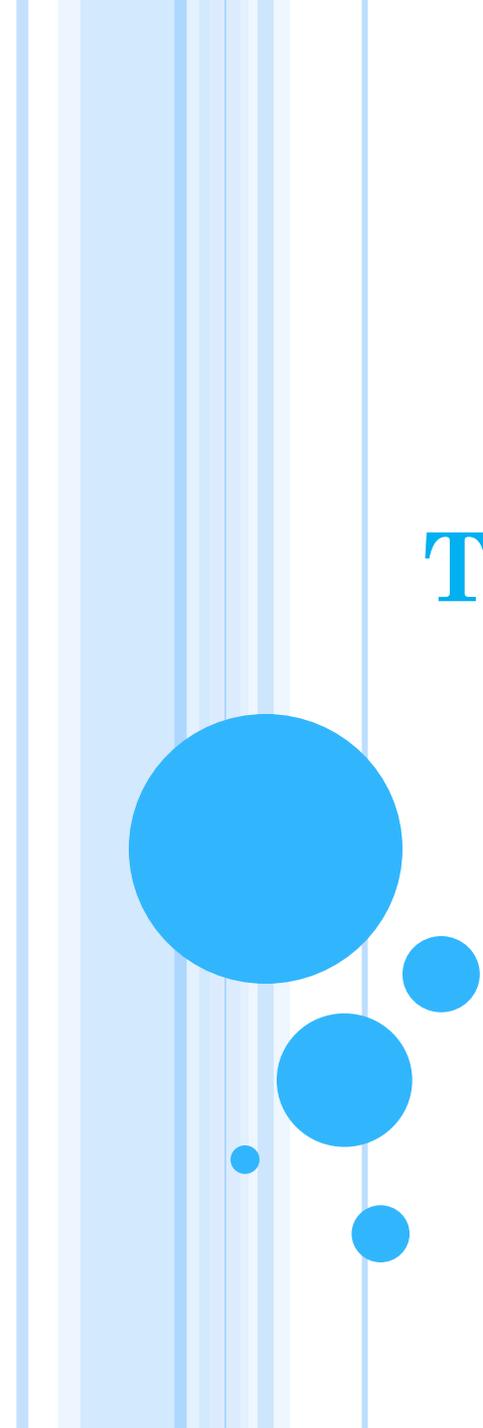
MEDICAID AND ACCESSIBILITY MODIFICATIONS

- **Medicaid can't pay for housing**
- **In California, HCBS 1915 (c) Waivers can help pay for accessibility modifications**
 - Several of DHCS's Waiver programs can pay for home modifications.
- **CCT can pay up to \$7,500 for Home Modifications.**

WHO PAYS FOR MODIFICATIONS? (CONT'D)

Potential sources of funds include:

- **Community Development Block Grant**
- **HOME**
- **Department of Rehabilitation**
- **Veterans Administration**
- **Rural Housing Services**
- **State Housing Finance Agency**



Thank You

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