

Source of Income and Housing Subsidy Program Protections

Are you aware of recent changes to California’s Fair Housing Law?

In 2020, the California legislature enacted SB 329 Housing Opportunities Act of 2019, amending the Fair Employment and Housing Act to clarify that housing vouchers are included within California’s prohibition on discrimination based on source of income (California Government Code Section 12927).

What is source of income protection?

Source of income laws permit tenants to use income from public assistance or other sources that may be viewed as nontraditional to pay rent. Housing providers cannot lawfully reject rental applicants because they receive, or will receive, assistance in paying their rent when they are otherwise qualified for the housing. Housing providers must include all sources of lawful income in determining whether a rental applicant is able to pay their rent. Lawful sources of income include housing subsidy programs, like Housing Choice Vouchers, Veterans Affairs Supportive Housing (VAISH) vouchers, and Rapid Re-housing programs.

Can a housing provider still screen applicants who receive housing subsidies?

Yes. Property owners have the right to screen all applicants to determine if they are eligible for the housing if they do not violate fair housing laws. Property owners may screen and reject any applicant, including those receiving a housing subsidy, for past conduct and ability to pay rent, provided that the screening is applied equally to all applicants.

How do I assess a voucher participant’s ability to pay the rent?

The housing subsidy amount must be considered as part of the tenant’s income, and any income standard applied by the housing provider must be based on the portion of the rent which would be paid by the tenant, rather than the total contract rent. If a housing provider requires that the tenant’s income equal or exceed three times the monthly rent, the housing provider will need to base the eligibility assessment on the tenant’s rent portion only. For example, if the contract rent is \$1,400 and the tenant portion will be \$300, the tenant would need to have a monthly income of at least \$900 to qualify for unit.

Can I still advertise “no Section 8?”

Effective January 1, 2020, it is unlawful to advertise “no Section 8” or “we do not participate in Section 8”. You are also required to accept applications for housing subsidy program recipients and cannot refuse to rent to a tenant because the tenant will receive a housing subsidy.

Can a housing provider lower or raise rents for housing subsidy program recipients?

Housing providers may choose to lower their rents to make the unit eligible for use with a housing subsidy program, but they are not required to. However, a landlord who raises the rent just for the purpose of making the unit ineligible for the housing subsidy program would be violating the law.

Where can I get more information about housing subsidy programs?

Please visit our website at hacsb.com for more information about the programs and upcoming workshops or call us at (909) 890-9533.