

Fair Housing Laws

Fair housing laws protect us all from housing discrimination. Federal and state fair housing laws prohibit discrimination in the rental, sale, insuring, and financing of housing. All housing providers—whether private, public, or non-profit—are required to follow fair housing laws.

The federal Fair Housing Act prohibits discrimination based on:

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

Hawai`i Revised Statutes (HRS) and Hawai`i Administrative Rules (HAR) include all of the federally protected characteristics and also prohibit discrimination based on:

- Marital Status
- Human Immunodeficiency Virus (HIV) Infection
- Age
- Ancestry
- Gender Identity or Expression
- Sexual Orientation

Housing providers that receive federal funding or provide services to the public may also be subjected to other legal requirements under Section 504 of the Rehabilitation Act of 1973, Executive Order 13166, and the Americans with Disabilities Act (ADA).

About Our Program

The Fair Housing Enforcement Program of the Legal Aid Society of Hawai`i is dedicated to promoting fair housing and ending housing discrimination through education, advocacy, outreach, and litigation. We believe that all persons should be afforded equal access to housing.



Call to Apply for Legal Services

Legal Aid Society of Hawai`i

924 Bethel Street

Honolulu, HI 96813

Oahu: (808) 536-4302 [Press 1]

Neighbor Islands: + 1 (808) 449-4302 [Press 1]

Our services are free if you qualify!

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Fair Housing in Homeless and Transitional Shelters

www.legalaidhawaii.org

www.fairhousinghawaii.org

How Do Fair Housing Laws Relate to Homeless and Transitional Shelters (“Shelters”)?

To determine whether the Fair Housing Act (FHA) applies, one would need to determine if the shelter is a “dwelling.”

A dwelling is “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families.”

This determination is made on a case-by-case analysis of factors such as:

1. Is there an agreement between the shelter and the resident?
2. Does the resident provide something in exchange for shelter? (e.g. paying rent or performing chores)
3. Does the resident have another residence they intend on returning to?

If a shelter qualifies as a dwelling, the shelter is required to comply with federal and state fair housing laws.

Common Fair Housing Issues that Arise in Shelters

FAMILIAL STATUS — Covers families with one or more individuals under the age of 18 who:

1. Live with a parent or another person with legal custody (or who is in the process of securing legal custody)
2. Live with a designee of a parent or having legal custody
3. Any person who is pregnant

Fair Housing Issues Related to Familial Status

- Requiring a person living with a minor child or children to show formal adoption or guardianship papers in order to be admitted into a shelter

Under Hawai`i state law, either written or unwritten permission is sufficient. State law recognizes more informal caretaking relationships (i.e. hanai relationships) such as a grandparent caring for their grandchildren.

NATIONAL ORIGIN — Refers to the country of one’s birth or the nationality of one’s ancestors

Fair Housing Issues Related to National Origin

- Refusing to provide an interpreter to communities with limited English proficiency (LEP) when the shelter receives federal and/or state funds
- Only accepting Social Security numbers and refusing to accept other documents to establish identity

DISABILITY — Having a physical or mental disability that substantially limits one or more major life activities; a history of having disability; or being regarded as a person with a disability

Fair Housing Issues Related to Disability

- Asking about the existence or severity of someone’s disability
- Requiring applicants or residents to waive the confidentiality of their medical records as a condition to stay in the shelter
- Refusing to provide residents with a reasonable accommodation (exceptions to standard policies, procedures, rules, or application criteria)

Examples:

- ⇒ A person with a disability requests an accommodation for their assistance animal at a no-pets shelter
- ⇒ A person facing termination from a shelter requests an accommodation because their problem behavior was the result of their disability and she/he proposes a strategy for correcting their behavior

- Refusing to provide residents with a reasonable modification (physical changes to their living areas)

Examples :

- ⇒ A person who uses a wheelchair requests to install a ramp so that she can access the portable bathrooms