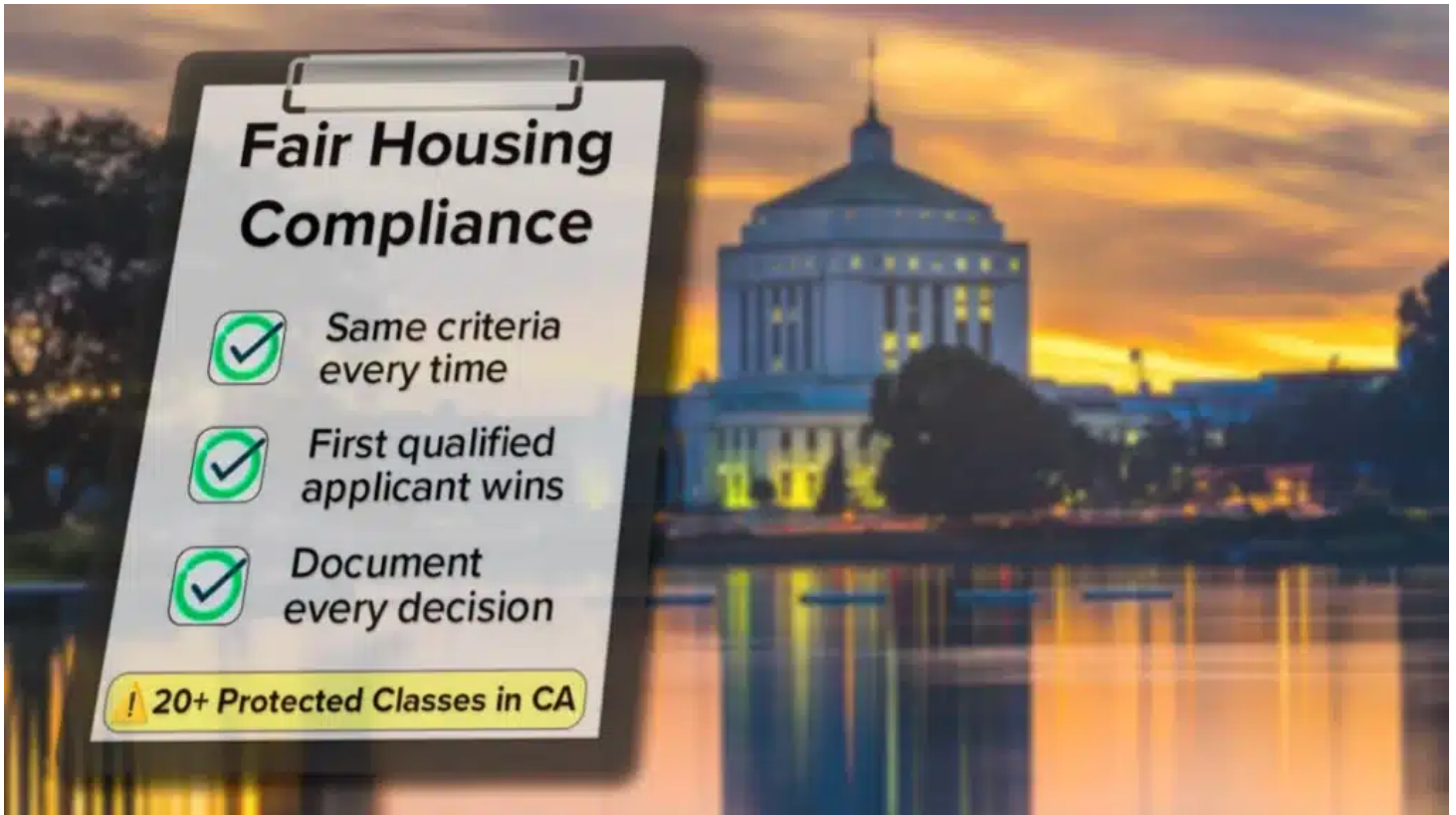


Fair Housing Protected Classes in California: What Landlords Often Miss



Quick Summary (Read This First)

California landlords must comply with **federal, state, and local** fair housing laws — not just the federal Fair Housing Act.

California recognizes 20+ protected classes, far more than the federal baseline.

Many fair housing complaints begin with **innocent questions or inconsistent screening decisions**, not intentional discrimination.

Asking about source of income, family status, disability, national origin, or immigration status — even casually — can create legal exposure.

The safest approach: Clear, written screening criteria applied consistently, with the first qualified applicant approved.

This article explains:

- Which protected classes trip landlords up most often
- What questions you should never ask
- Why “reasonable judgment” isn’t a legal defense
- How Bay Area enforcement actually works
- What practical steps reduce risk immediately

This article is week 3 of our February 2026 education series focused on helping Bay Area landlords stay informed, compliant, and protected.

[!\[\]\(339a16584d5da0f0a3ca4e9ec17bf6a1_img.jpg\) February overview: Screening Mistakes And Fair Housing in California \(How To Avoid Them\)](#)

[!\[\]\(a870788d6ed9b8fd294b7654a8c8526b_img.jpg\) Week 2: “Flexible Screening” = Fair Housing Risk \(What to Do Instead\)](#)

Video Transcript

A landlord in Oakland asked a prospective tenant one simple question during a showing: “What country are you from?” It felt like small talk. It cost him a five-figure fair housing settlement.

If you’re a landlord in California — especially in the Bay Area — you need to watch this.

Most landlords know the basics — race, religion, disability. But California’s Fair Employment and Housing Act goes much further. We’re talking 20-plus protected classes. And cities like Oakland and Berkeley add even more on top of that. Complying with federal law isn’t enough here. You can follow federal rules perfectly and still violate California law.

Let me walk you through the four areas where we see landlords get into trouble most often.

Number one: Source of income. Since 2020, you cannot refuse to accept Section 8 vouchers, SSDI, SSI, or other government assistance in California. You can require income of 3 times the rent — but you have to count voucher income the same as a paycheck.

Number two: Familial status. Saying things like “this is a quiet building” or “it’s great for young professionals” — even casually — can be used as evidence of discrimination against families with children.

Number three: Disability and ESAs. Emotional support animals are not pets. You cannot say no just because you have a no-pet policy. And you cannot ask about someone’s diagnosis — only whether an accommodation is necessary.

Number four: Immigration and citizenship status. Even casual questions like “where are you originally from?” during a showing can create legal exposure if that applicant is later denied.

Here’s the part that surprises most landlords: intent doesn’t matter. You don’t have to mean to discriminate. If your process is inconsistent, or if you asked a question you shouldn’t have, that’s enough. Going with your gut? Not a legal defense. “They just seemed more reliable?” That explanation won’t hold up if the other applicant files a complaint.

The good news is there’s a straightforward way to protect yourself. Write down your screening criteria before you accept any applications — minimum income, credit score, rental history. Apply those criteria to every applicant in the same order. Approve the first applicant who fully meets your written criteria. Document everything. And describe the property — not the person. Say “second-floor walk-up.” Don’t say “perfect for a single professional.”

Bay Area fair housing enforcement is active. Advocacy groups test landlords regularly — calling to ask if you accept Section 8, or whether a unit works for someone with a wheelchair. One wrong answer to the wrong caller can trigger a formal investigation.

We’ve linked the full article in the description — it includes a compliance checklist you can screenshot and use today. And if you’d like help managing your rental property the right way, we’d love to talk.

I'm Emery with All East Bay Properties. Thanks for watching.

A \$15,000 Question Most Landlords Don't Realize They're Asking

A [landlord in Oakland](#) asked a prospective tenant during a showing:

“What country are you from?”

It felt like small talk.

It wasn't tied to rent, credit, or income.

It seemed harmless.

It still resulted in a five-figure fair housing settlement.

Why? Because national origin and citizenship status are protected classes under [California law](#), and **intent doesn't matter**. Once the applicant was denied (for legitimate credit reasons), the earlier question created the appearance of bias — and that was enough to trigger a discrimination claim.

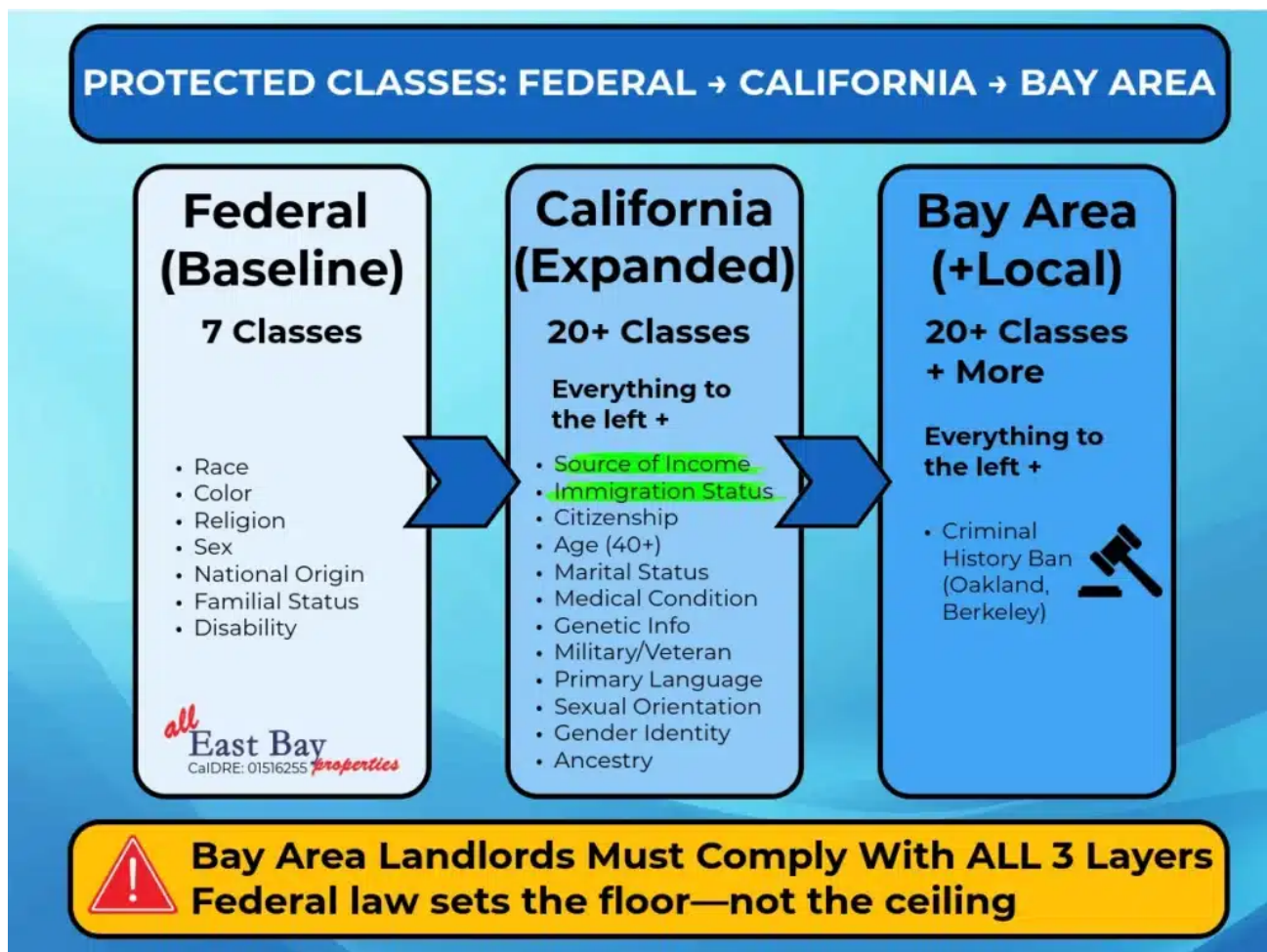
Most landlords can name a few protected classes: race, religion, disability.

Very few understand **how many exist in California** — or how easy it is to violate the law without realizing it.

Federal vs. California vs. Local Law: Why the List Keeps Growing

Many landlords assume that complying with the federal Fair Housing Act means they're covered.

In California — especially in the [Bay Area](#) — **that assumption is dangerous**.



California landlords must comply with federal, state, AND local protections—each layer adds more protected classes. Source of income and immigration status are among the most commonly missed California-specific protections.

Federal Fair Housing Act (The Baseline)

The federal Fair Housing Act protects seven classes:

- Race
- Color
- Religion
- Sex (including gender identity and sexual orientation as of 2021)
- National origin
- Familial status (families with children)

- Disability

Source: [U.S. Department of Housing and Urban Development – Fair Housing Act Overview](#)

California Fair Employment and Housing Act (FEHA)

California law expands protections significantly, adding:

- **Source of income** (including housing vouchers and government assistance)
- Immigration status
- Citizenship
- Marital status
- Sexual orientation
- Gender identity and expression
- Ancestry
- Medical condition
- Genetic information
- Military or veteran status
- Age (40 and over)
- Primary language

Sources:

- [California Civil Rights Department – Fair Housing](#)
- [California Government Code Section 12955](#)

Local Bay Area Expansions

Cities like Oakland, [Berkeley](#), San Francisco, and [Emeryville](#) layer on **additional tenant protections** and maintain aggressive enforcement mechanisms.

Notable local restrictions:

Criminal Background Check Bans

Both Oakland and Berkeley prohibit the use of criminal background checks in tenant screening under their respective [Fair Chance Housing Ordinances](#). While criminal history isn't a "protected class" in the traditional sense, these local laws effectively remove it as a screening tool.

Sources:

- [Oakland Fair Chance Housing Ordinance](#)
- [Berkeley Fair Chance Access to Housing Ordinance](#)

Other Local Protections:

- **Oakland** enforces strict source of income protections and maintains active tenant rights programs
- **Berkeley** has its own Rent Stabilization Board with enforcement authority
- **San Francisco** adds protections around caregiver status and gender expression

Sources:

- [City of Oakland – Fair Housing Services](#)
- [City of Berkeley – Rent Stabilization Program](#)

Key takeaway: You can comply with federal law and still violate California or local law.

The Protected Classes That Get Landlords in Trouble Most Often

Not all protected classes generate equal risk in practice. The following categories account for the majority of real-world complaints.

1. Source of Income (The Most Common Mistake)

What landlords think is okay:

- “I don’t accept Section 8”
- “I only rent to tenants with traditional employment”
- “Vouchers add too much paperwork”

Why it’s not:

In California, **source of income has been a protected class since 2020**. This includes:

- Section 8 Housing Choice Vouchers
- Veterans Affairs Supportive Housing (VASH) vouchers
- Social Security Disability Insurance (SSDI)
- Supplemental Security Income (SSI)
- CalWORKs housing support
- Any other lawful source of income or rental assistance

Refusing to accept vouchers — or discouraging applicants who use them — **violates state law**.

You can still screen for income sufficiency (e.g., “total household income must equal 3x monthly rent”), but you **cannot treat voucher income differently** than employment income.

Sources:

- [California AB 1482 – Source of Income Protection](#)
- [CRD – Source of Income Discrimination Fact Sheet](#)

What to do instead:

Screen for income sufficiency, not income source. If total verified income (including vouchers) meets your requirement, the applicant must be evaluated equally.

2. Familial Status (The “Quiet Building” Trap)

What landlords think is okay:

- “This building is better for professionals”
- “It’s a quiet property — probably not ideal for kids”
- “Most of our tenants don’t have children”

Why it’s not:

Familial status is a federally protected class. **Discouraging families — even indirectly — is discrimination.**

Statements about the “type” of tenant who would be a “good fit” are a common trigger for complaints, especially when followed by a denial.

Even **asking “Do you have kids?”** creates exposure, because it signals that family composition is part of your decision-making process.

A simple rule of thumb: Describe the property, not the person.

Say: “This is a second-floor unit with no elevator” or “The building has hardwood floors throughout.”

Don’t say: “This is perfect for a single professional” or “Most residents here are child-free.”

Source:

- [About HUD Occupancy Limits](#)

What to do instead:

Apply neutral occupancy standards consistently (e.g., HUD’s guideline of 2 persons per bedroom is a common reference) and **avoid any commentary** about children, noise, or household composition. Stick to describing the physical features of the property.

3. Disability & Reasonable Accommodations

What landlords think is okay:

- “We don’t allow pets, so that emotional support animal can’t stay”
- “That accommodation request seems unreasonable”
- “Can you show me proof that you’re really disabled?”

Why it’s not:

Under federal and state fair housing law:

- **Emotional support animals (ESAs) are not pets** — they are reasonable accommodations for disabilities
- You must evaluate accommodation requests individually, not apply blanket rules
- You **cannot ask about the nature or severity of a disability**
- You **cannot delay** — delays are treated as denials

For ESAs, you may request documentation from a licensed healthcare provider verifying that the animal provides therapeutic benefit. You **cannot** demand:

- “Certification papers” (no official ESA registry exists)
- Details about the person’s diagnosis
- Demonstrations of the animal’s training

Sources:

- [CRD – Emotional Support Animals and Fair Housing Law](#)
- [CA Dept. of Rehabilitation – What you need to know about Service Animals](#)

What to do instead:

Use a standard reasonable accommodation request form that asks for verification **that the accommodation is necessary**, without probing medical details. Process requests promptly.

4. Immigration & Citizenship Status (The “I Didn’t Know” Category)

What landlords think is okay:

- Casual questions during showings
- “Where are you from originally?”
- “Do you have a work permit?”

Why it’s not:

Immigration status and citizenship are **explicitly protected under California law**. Even asking about them — even as small talk — creates exposure if the applicant is later denied.

You **cannot** require specific forms of ID (e.g., U.S. passport only) or ask about work authorization.

Source:

[Citizenship and Immigration Status Protections under the Unruh Civil Rights Act](#)

What to do instead:

Verify income and identity using standard documentation. Accept any government-issued ID (driver’s license, passport, state ID, consular ID). Focus exclusively on rental qualifications: income, credit, rental history.

“I Was Just Asking...” — Innocent Questions That Are Actually Illegal

Most landlords don’t set out to discriminate. They’re making conversation. They’re trying to assess “fit.”

But fair housing law doesn’t evaluate intent. It evaluates impact and consistency.

Here are questions that feel harmless — and can cost you thousands:

QUESTIONS YOU SHOULD NEVER ASK CALIFORNIA TENANTS					
	NEVER ASK		WHY IT'S ILLEGAL		DO THIS INSTEAD
	"What country are you from?"		National origin is protected. Creates appearance of bias		Don't ask. Verify income & employment only.
	"Do you have kids?"		Familial status is protected. Can't discourage families		Use occupancy standards only. Never mention family

Questions that seem innocent can create fair housing liability. Once asked, they cannot be taken back—and if the applicant is later denied for any reason, they become evidence of bias.

The pattern: These questions aren't about rental qualifications. They're about **who the person is** — and that's where protected classes live.

The “Reasonable” Justification That Doesn't Hold Up in Court

Landlords often defend decisions with explanations that feel logical — but fail legally.

Examples of defenses that don't work:

“I denied them for income, not the voucher.”

→ Still illegal if your income requirement effectively excludes voucher holders, or if applied inconsistently.

“I don't allow pets, so no ESA.”

→ Assistance animals are not pets under fair housing law. This is not discretionary.

“I was just trying to be helpful by suggesting they look elsewhere.”

→ Steering applicants away from a property is still discrimination, even with “good” intentions.

“I went with my gut — the other applicant just seemed more reliable.”

→ “Gut feeling” is not a legal defense. It's often interpreted as evidence of bias.

Fair housing law looks at process and consistency, not motivation.

Bay Area Reality: Who Actually Files Complaints (And Why)

Many landlords assume complaints come from “problem tenants.”

In reality, complaints often originate from:

Rejected Applicants

Applicants who sensed inconsistency, inappropriate questions, or discriminatory treatment during the screening process.

Tenant Advocacy Organizations (“Shoppers”)

The Bay Area has particularly active fair housing enforcement. Advocacy groups routinely:

- Monitor [rental listings](#) for problematic language
- Call landlords posing as prospective tenants to ask loaded questions
- Test whether landlords apply screening criteria consistently

In the industry, these are known as “shoppers” or “testers.”

Real examples we’ve encountered:

- Callers asking “Do you accept Section 8?” to test source of income compliance
- Applicants for clearly-advertised second-floor walk-ups asking “Would this work for someone in a wheelchair?” to test disability responses
- Questions designed to elicit statements about family status, age, or national origin

While these organizations serve as tenant advocates, there is also **significant financial incentive** in identifying violations — settlements and legal fees can be substantial.

Active Bay Area organizations include:

- [East Bay Community Law Center – Housing Rights](#)
- [Centro Legal de la Raza – Housing Program](#)
- [Tenants Together \(statewide\)](#)

Current Tenants

Tenants who notice unequal treatment in repairs, renewals, or lease enforcement compared to other tenants.

Neighbors and Third Parties

People who overhear conversations during property showings or application discussions.

The key point: Complaints are driven by individual interactions and specific statements — not random audits. But those interactions are being monitored more actively in the Bay Area than in most other markets. One problematic question to the wrong caller can trigger a formal investigation.

Why Inconsistent Screening Is the Real Liability

Consider this scenario:

Two applicants.

Same credit score.

Same income level.

One mentions receiving SSDI.

You approve the other because they “seemed more stable.”

You didn’t document the decision.

You didn’t apply a written standard.

You just... decided.

That’s not judgment — that’s exposure.

If the SSDI recipient files a complaint, you’ll be asked:

- What criteria did you use?
- How did you apply them consistently?
- Why was one applicant approved and not the other?

Without documentation, **your explanation will sound like rationalization** — even if you truly weren't discriminating.

The legal standard: Approving the **first applicant who fully meets your written criteria** removes subjectivity and is the most defensible approach.

Source: [HUD – Guidance on Application of Fair Housing Standards](#)

Best Practices That Actually Reduce Risk

Screenshot this section.

FAIR HOUSING COMPLIANCE CHECKLIST FOR BAY AREA LANDLORDS

- ☒ Written screening criteria
- ☒ Predetermined exceptions
- ☒ Same questions, same order
- ☒ Document every decision
- ☒ Never ask about protected characteristics
- ☒ Describe property, not person
- ☒ First qualified applicant wins
- ☒ Train everyone who interacts with

These eight practices form the foundation of a defensible screening process. Save this checklist and review it before every tenant screening decision.

☐ **Use written, specific screening criteria**

Define minimum income, credit score, and rental history requirements in writing. Apply them to every applicant.

☐ **Establish predetermined exceptions in advance**

Don't make up exceptions on the fly — that's where inconsistency creates liability.

If an applicant doesn't meet your standard criteria, will you consider:

- A qualified co-signer?
- X months rent paid in advance?
- Proof of liquid reserves?

Note: *asking for additional security deposit is no longer a legal option as of July 1st, 2024 under [California's New Security Deposit Law \(AB 12\)](#)*

Write down your exception policy before you receive any applications. Apply these exceptions equally to all applicants who don't meet base criteria. Document which exception was used and why the applicant qualified.

Example:

“Applicants who don't meet the 3x income requirement may qualify with:

- A co-signer who meets 5x income requirement, OR
- Payment of 3 months rent in advance”

☐ **Ask the same questions in the same order**

Use a standardized application and showing script. Train anyone who interacts with applicants.

☐ **Document every approval and denial**

Note which criteria the applicant met or didn't meet. Keep records for at least 3 years.

☐ **Never ask about protected characteristics**

Focus exclusively on: income, credit, rental history, references.

☐ **Describe the property, not the person**

Say "second-floor walk-up" not "perfect for young professionals." Stick to physical features.

☐ **If two applicants both qualify, use date/time of completed application**

First complete application wins. Document the timestamp.

☐ **Train anyone who interacts with applicants**

Property managers, assistants, maintenance staff — everyone needs to know what not to ask.

☐ **Process accommodation requests promptly**

Delays are treated as denials. Respond within a reasonable timeframe (typically 10-14 days maximum).

For a detailed breakdown of how standardized screening protects you from liability, read:

☐ [Why Flexible Tenant Screening Creates Fair Housing Risk](#)

Frequently Asked Questions (FAQ)

How many protected classes are there in California?

California recognizes **20+ protected classes** under the Fair Employment and Housing Act (FEHA), compared to 7 under federal law. Local jurisdictions may add additional protections.

Source: [California Civil Rights Department](#)

Can landlords choose between two qualified applicants?

Only if the decision is based on **documented, neutral criteria** applied consistently.

Otherwise, approving the **first qualified applicant** (based on application timestamp) is the safest and most defensible approach.

Is “gut feeling” ever a valid reason to deny an applicant?

No. “Gut feeling” is not a legal defense in fair housing cases. Courts view unexplained decisions as evidence of potential bias.

Source: [U.S. Department of Justice – Housing Discrimination Cases](#)

Can I ask about vouchers or government assistance programs?

No. Source of income is a protected class in California. You cannot ask whether an applicant uses vouchers, and you cannot refuse to accept them.

You **can** set minimum income requirements, but voucher income must be counted equally with employment income.

Source: [California AB 1482](#)

Do fair housing violations require intent to discriminate?

No. Violations are based on **impact and inconsistency**, not intent. Even unintentional discrimination — or the appearance of it — can result in penalties.

Source: [U.S. Department of Justice – Housing Discrimination Cases](#)

What happens if someone files a fair housing complaint against me?

Complaints can be filed with:

- U.S. Department of Housing and Urban Development (HUD)
- California Civil Rights Department (CRD)
- Local fair housing agencies

Investigations typically involve:

- Document requests (applications, communications, screening criteria)
- Interviews with both parties
- Review of your screening process for consistency

Settlements often start at **\$10,000-\$15,000**, and cases can take 6-18 months to resolve.

We'll cover enforcement in detail in next week's article.

Why This Matters

You don't need to **intend** to discriminate to face a fair housing claim.

All it takes is any one of these:

1. **One question** you shouldn't have asked
2. **One inconsistent decision** you can't explain
3. **One applicant** filing a complaint

The only reliable defense is a **clear, documented, consistent screening process** that removes subjectivity from tenant selection.

Learn More

This article is part of our ongoing **Fair Housing & Tenant Screening series** for Bay Area landlords.

☐ [Tenant Screening Mistakes That Trigger Fair Housing Claims in California \(And How Bay Area Landlords Can Avoid Them\)](#)

For a deeper breakdown of why flexible screening creates risk, read:

☐ [Why Flexible Tenant Screening Creates Fair Housing Risk in California](#)

Next up: [Fair Housing Starts Before the Application: Rental Ads & Language That Create Liability](#)

Related video: [Fair Housing Protected Classes in California: The 20+ Classes East Bay Landlords Often Miss](#)

Last month: We covered [2026 changes to property management law in California](#) including guides to checking that [your lease agreements still comply](#), the [real cost of non-compliance](#), and [self managing your property in 2026](#). We hope you find them useful and informative.

Source: <https://alleastbayproperties.com/fair-housing-protected-classes-california-landlords/>