

Fair Housing Enforcement

Fair housing means that housing should be available to all people without discrimination based on characteristics such as race, sex or disability. Continued enforcement of fair housing law is critical to overcoming patterns of segregation and fostering inclusive communities. Jurisdictions can further fair housing by supporting organizations that conduct fair housing testing, investigate complaints, and assist with complaints filed with the state and/or federal agencies. In response to fair housing complaints, fair housing organizations can also provide mediation between property owners and residents or file lawsuits against property owners violating the law.

Legal Context

What Does State Law Require?

California’s [Fair Employment and Housing Act](#) prohibits those engaged in the housing business from discriminating against protected classes. The California Department of Fair Employment and Housing is responsible for enforcing state fair housing laws, which include investigating and settling fair housing complaints.

[Affirmatively Furthering Fair Housing](#), established by AB 686 (2018), requires that local jurisdictions take meaningful actions that address significant disparities in housing needs and in access to opportunity. These include replacing segregated living patterns with truly integrated and balanced living patterns; transforming racially and ethnically concentrated areas of poverty into areas of opportunity; and fostering and maintaining compliance with civil rights and fair housing laws.

At-A-Glance

RELEVANT STATE LAWS

[Fair Employment and Housing Act](#)

[Affirmatively Furthering Fair Housing \(AB 686\)](#)

POTENTIAL FUNDING SOURCES

- Community Development Block Grant (CDBG) funds
- HUD Fair Housing Initiatives Program
- Fair Housing Assistance Program

COST

Low to Medium

ADMINISTRATIVE BURDEN

 Medium

Staff capacity needed to identify funding sources, develop program, issue an RFP and provide ongoing oversight and reporting.

WHICH P?

Protection

POTENTIAL PARTNERS

- Property Owner Associations
- Nonprofit Service Providers
- Legal Aid Groups
- Tenant Advocacy Organizations



OPTION FOR TOC POLICY COMPLIANCE?

Yes!



How Can Jurisdictions Implement Programs That Go Beyond State Law?

- Adopt local programs to expand the accessibility of tenant support services.
- Provide proactive education for tenants and landlords.

- Ensure an accessible, safe and effective reporting process for tenants to report a violation of fair housing rights.
- Support local and regional organizations providing fair housing services.

Program Design, Implementation and Evaluation Considerations

The callout box below labeled “TOC Policy Requirements” describes the policy features necessary for a jurisdiction to receive credit toward TOC Policy compliance. All other policy features discussed in this document represent details found in existing policies on the subject and a jurisdiction may want to consider them when adopting or implementing a policy, but nothing is required for TOC Policy compliance unless noted as a requirement in the “TOC Policy Requirements” callout box or the [TOC Policy Administrative Guidance](#).

Elements of the Program

- A complaint and investigation process
- Outreach, education and support for both property owners and residents
- Proactive testing and monitoring
- Support for existing service providers

Program Design Considerations

Jurisdictions may want to consider the following:

DEDICATED, ONGOING FUNDING: In almost all cases, a jurisdiction provides funding to an external fair housing organization to manage a local enforcement program. Many jurisdictions fund these programs with CDBG funds.

PROGRAM SERVICES: Enforcement programs can be structured to fit local needs, capacity and staff expertise. A program can prioritize partnerships with service providers, or it can provide more comprehensive services such as complaint procedures, remedies and access to judicial review.

FAIR HOUSING AUDIT: Funding fair housing organizations to conduct a Fair Housing Audit, which can provide more systemic testing and be tailored to local context and priority concerns. For example, an audit can track compliance

with laws prohibiting source-of-income discrimination against renters with Housing Choice Vouchers.

FAIR HOUSING TESTING PROGRAM: Funding fair housing organizations to conduct ongoing testing is critical for determining whether housing providers are in compliance with fair housing law, and enables both data collection and enforcement. Testing programs dispatch individuals to pose as prospective renters or buyers. Testing can reveal multiple forms of differential treatment, including cost of rent or purchase price, use of background checks, required bureaucratic hurdles and outright denial of housing.

SUPPORT FOR ESTABLISHED SERVICE PROVIDERS: Existing service providers and community organizations are highly effective at reaching both property owners and residents. These groups often have the experience needed to reach vulnerable populations and support jurisdiction-wide efforts.

NOTIFICATION REQUIREMENTS: Require housing professionals to give notices to applicants and tenants informing them of their rights and support services.

Program Implementation, Administration and Enforcement

In most cases, the key role of a jurisdiction in fair housing enforcement is providing a dedicated, ongoing funding source for a program developed and led by an established service provider. Partnerships with established fair housing organizations can reduce the burden on staff capacity and department budgets, while improving program reach and accessibility. Fair housing organizations can investigate issues and assist with filing complaints with the state and/or federal agencies. They can also mediate between housing providers and complainants or file lawsuits for violations. If capacity allows, jurisdictions may want to have a designated Fair Housing Enforcement Officer on staff who will serve as the lead point of contact with partner organizations.

Having reliable and up-to-date data can support program expansion and assist with funding applications and tracking program impact over time. Jurisdictions can partner with local service providers to collect relevant data and build tracking processes into existing systems. Jurisdictions can leverage data from fair housing testing and periodic audits to inform policymaking, resource allocation for housing programs, targeted fair housing outreach and enforcement strategies.

Jurisdictions or partner organizations can prepare annual reports to document impact and communicate outcomes of fair housing lawsuits, complaints, testing, audits and investigations. Annual reporting can inform public policy regarding fair housing issues and progress toward addressing them.

Well-designed, targeted and culturally responsive outreach and education can equip residents with the tools needed to file a complaint, seek legal advice or counsel or pursue other legal or administrative recourse. Property owners, realtors and lenders benefit

from outreach designed to explain their rights and responsibilities under fair housing law. Jurisdictions should ensure information is accessible for people with disabilities and those without internet access. Jurisdictions should leverage trusted networks—including faith-based institutions, schools, community-based organizations and local newsletters or message boards—to ensure broad reach in multiple languages.

In some cases, jurisdictions may want to pass ordinances establishing additional protected classes. Examples of additional protected classes may include political ideology, previous incarceration or household composition.



TOC Policy Requirements: To comply with TOC policy, jurisdictions must implement a program with a secured funding source that provides ongoing allocations to the program levels (as outlined in [Appendix B of the Administrative Guidance](#)).

Jurisdictions that have an existing balance in a fair housing enforcement funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).

Jurisdictions that have committed fair housing enforcement funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met: a) the funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an organization to use for fair housing enforcement during the OBAG 4 cycle sometime between 2026 and 2030), and/or b) the funds are expended after January 1, 2025.

Jurisdictions must contract with one or more fair housing service providers to provide fair housing enforcement services, or establish a testing and enforcement program with staff who conduct fair housing testing on a regular basis, investigate discrimination complaints, provide information to tenants and landlords, and refer cases to the State Department of Fair Employment and Housing. They also must post information on fair housing services to a public jurisdiction website.

Program Evaluation

Jurisdictions can evaluate program effectiveness by analyzing the volume and nature of complaints related to discrimination, how long it takes to investigate complaints and what percentage and/or how many cases levy lawful penalties against landlords.

Complementary Policies

LEGAL ASSISTANCE FOR TENANTS: Legal assistance programs can help ensure that tenants have legal support to address fair housing violations.

TENANT ANTI-HARASSMENT PROTECTIONS: Both tenant anti-harassment protections and fair housing enforcement can guard against retaliation from a landlord who might try to evict or harass the tenant for asserting their rights.

This document is intended to provide general information and does not constitute legal advice. Additional facts, facts specific to a particular situation, or future developments may affect the subjects discussed in this document. Seek the advice of your jurisdiction's legal counsel before acting or relying upon this information. For specific questions regarding TOC compliance, please reach out to TOCpolicy@bayareametro.gov.

Other Resources

EXAMPLES*

[City of Oakland - Housing Discrimination Funding](#)

[Project Sentinel's Fair Housing Center](#)

[City of Santa Barbara - Fair Housing Enforcement Program](#)

[City of Seattle - Fair Housing Testing Program](#)

OTHER RESOURCES

[HUD - Fair Housing Initiatives Program](#)

[CA Civil Rights Department](#)

[National Fair Housing Alliance](#)

[Fair Housing Advocates of Northern California](#)

[Metropolitan Transportation Commission - Protection Policy 10: Fair Housing Enforcement](#)

**Note that examples have not been vetted for full TOC Compliance.*