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What is a “Protected Class”?

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Historically and statistically, there have been identifiable groups within our society that have received unfavorable treatment with regard to housing. They have been rejected or prevented from renting or buying real property, given different terms, paid higher rents or security deposits, or experienced a lower level of service during tenancy than other groups of people.

Do “protected classes” get special rights?

No, the intention of federal and state fair housing laws is to require that ALL persons be given the same treatment, the same services, and offered an equal opportunity to live in a home of their choice—in other words, the same rights as everyone else. The only exceptions to this are disabled persons who have been given several special rights in order to establish equal opportunity. (Note: If, for some reason, you must deviate from your normal procedures, be sure to document the situation; who, when, what, and why.)

Are “protected classes” the same throughout the U.S.?

The protected classes have been identified at the federal, state, and in some cases, local levels of government. There are some variations that allow for differences in the make-up of individual communities.

At the federal level, there are seven classes: race, color, religion, sex, national origin, familial status, and handicap.

At the state level, California has added marital status, sexual orientation, age, ancestry, and source of income, and medical condition, while other states have added military status, Section 8 and other groups.

At the local level, some cities have added their own classes, such as the inclusion of “height and weight or body size” in both San Francisco and Santa Cruz, and “students” in Berkeley.

Which group experiences the most incidences of discrimination?

The majority of discrimination cases filed throughout the United States are filed on the basis of disability, as much as 40 percent nationally. Second is race/color and third is familial status.

A few things you should know about several of the “protected classes”

- *Color*: There can be many shades of skin color within a race, and many people are combinations of multiple races; therefore, race and color are often combined in a complaint. Persons with darker skin tend to experience more frequent incidences of discrimination in housing, as well as in many other day-to-day situations.
- *Sex*: Sexual harassment is covered in this protected class, in which there is a growing awareness of discrimination. California also includes “gender identity” under the category of “sex.”

- *Familial status*: Pregnancy is included in this category. The only housing that can exclude children is bona fide senior housing.
- *Handicap or Disability*: This group covers medical conditions, mental or psychological and physical disabilities. The two special rights extended to the disabled include: 1) the right to make reasonable modifications to a dwelling to enable them to live there comfortably, and 2) the responsibility of management to make reasonable accommodations in order to allow the disabled person to fully enjoy their tenancy. An accommodation, in most cases, involves modifying a policy, procedure, service or rule, such as allowing assistive animals when no pets are allowed, or assigned special parking spaces.

In California, which is often on the cutting edge of legal issues, two additional concepts have been added that pertain to protected classes: *perception and association*.

- *Perception*: If someone discriminates against a person, thinking that he or she is from a protected class, but the person isn't from that protected class, it is considered an act of discrimination.
- *Association*: Discriminating against someone because his or her friends or guests are from protected classes is also a violation.

Additionally, in California, *arbitrary discrimination* is considered to be a violation. This means that when management deliberately or arbitrarily discriminates against a person or group of persons based on personal characteristics, they are violating fair housing laws. This might include persons with tattoos, numerous body piercings, unusual hair styles, overweight persons, etc.

Technically, **we all** belong to several of these protected classes by virtue of just being male or female, married or unmarried. If management treats EVERYONE who comes in the door or calls on the phone with equal courtesy and provides the same opportunities to EVERYONE, the need for "protected classes" will be a thing of the past.

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