



Department of Fair Employment & Housing Fair Employment & Housing Council

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Title 2. Administration Division 4.1. Department of Fair Employment and Housing Chapter 5. Fair Employment & Housing Council Subchapter 7. Discrimination in Housing

Notice published July 3, 2019

THIRD NOTICE OF MODIFICATIONS TO TEXT OF FAIR HOUSING REGULATIONS AND NOTICE OF ADDITION OF DOCUMENTS AND INFORMATION TO RULEMAKING FILE

Pursuant to the requirements of Government Code section 11346.8(c), and section 44 of Title 1 of the California Code of Regulations, the Fair Employment and Housing Council (Council) is providing notice of further changes made to sections 12005, 12010, 12060-12063, 12100, 12120, 12130, 12155, 12161, 12162, 12176-12180, 12185, and 12264-12271 of Title 2 of the California Code of Regulations covering the Fair Employment and Housing Act. These further changes are attached and made in response to written comments regarding the proposed regulations received during the second 15-day public comment period that ended December 28, 2018. Text proposed to be added for this 15-day comment period is displayed in wavy underline type. Text proposed to be deleted for this 15-day comment period is displayed in italicized strikethrough type.

WRITTEN COMMENT PERIOD

If you have any comments regarding the changes to the proposed regulations made after the close of the second 15-day comment period on December 28, 2018, the Council will accept written comments between July 3, 2019, and July 18, 2019. **All written comments must be submitted no later than 5 p.m. on July 18, 2019, and addressed to:**

Fair Employment and Housing Council
c/o Brian Sperber, Legislative & Regulatory Counsel
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013

Comments may be submitted by e-mail to FEHCouncil@dfeh.ca.gov and brian.sperber@dfeh.ca.gov. **An electronic copy of your comments is preferred, but not required.**

All written comments received by July 18, 2019, which pertain to the indicated changes, will be reviewed and responded to by the Council as part of the compilation of the rulemaking file. Please limit your comments to the modifications to the text made after the close of the second 15-day

comment period on December 28, 2018 (i.e. the text that is displayed in wavy underline type or italicized strikethrough type).

NOTICE OF ADDITION OF DOCUMENTS AND INFORMATION TO RULEMAKING FILE

Pursuant to the requirements of Government Code sections 11346.8(d), 11346.9(a)(1), and 11347.1, the Council is providing notice that documents and other information which the agency has relied upon in adopting the proposed regulations have been added to the rulemaking file and are available for public inspection and comment.

The documents and information added to the rulemaking file are as follows:

1. Joint Statement of the Department of Housing and Urban Development and the Department of Justice on “Reasonable Accommodations Under the Fair Housing Act” (HUD/DOJ Reasonable Accommodations Under the Fair Housing Act)
2. HUD FHEO Notice: Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs (FHEO Notice)
3. HUD Final Rule, Pet Ownership for the Elderly and Persons with Disabilities
4. DOJ Revised Requirements on Service Animals (DOJ Service Animal Requirements)
5. DOJ guidance document Frequently Asked Questions about Service Animals and the ADA (DOJ FAQ on Service Animals)
6. U.S. Department of Housing and Urban Development, Office of General Counsel Guidance on Application of Fair Housing Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (HUD Guidance on FHA and Use of Criminal Records)
7. HUD’s Implementation of the Fair Housing Act’s Discriminatory Effects Standard; Final Rule (HUD Discriminatory Effects Standard Final Rule)
8. HUD’s Final Rule on Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices Under the Fair Housing Act (HUD Final Rule Harassment)
9. FEHC Precedential Decisions:
 - a. *DFEH v. Merribrook Apts.* (1988) FEHC Precedential Dec. No. 88-19, 1988 WL 242651
 - b. *DFEH v. Atlantic North Apartments, et al.* (1983) FEHC Precedential Dec. No. 83-12, 1983 WL 36461
 - c. *DFEH v. McWay Family Trust* (1996) FEHC Precedential Dec. No. 96-07, 1996 WL 774922
 - d. *DFEH v. O’Neill* (2008) FEHC Precedential Dec. No. 08-08, 2008 WL 5869851
 - e. *DFEH v. DeSantis* (2002) FEHC Precedential Dec. No. 02-12, 2002 WL 1313078
10. Judicial Council of California’s approved form for answers in unlawful detainers (UD-105)
11. HUD’s November memorandum with the subject “Questions and Answers on Sexual Harassment under the Fair Housing Act” (HUD FAQ Sexual Harassment)
12. Bill Analysis, Senate Committee on Judiciary, AB 2244 (1993-94 Reg. Sess.)
13. Joint Policy Statement on Discrimination in Lending
14. Stats. 1993, c. 1277 (A.B. 2244), § 6
15. Stats. 1980, c. 992, § 4
16. Joint Statement of the Dept. of Justice and the Dept. of Housing and Urban Development, State and Local Land Use Laws and Practices and the Application of the Fair Housing Act (November 10, 2016)
17. Joint Statement of the Dept. of Justice and the Dept. of Housing and Urban Development, Group Homes, Local Land Use, and the Fair Housing Act (August 18, 1999)

18. Joint Statement of the Dept. of Justice and the Dept. of Housing and Urban Development, Group Homes, Local Land Use, and the Fair Housing Act, and Related Q&A (Updated August 6, 2015)
19. Legislative Intent Language on GC 12955, Chapter 1277, Statutes of 1993, Sec. 18
20. Legislative Intent Language on FHA, H.R. Rep. No. 100-711, 100th Congress, 2d Sess. 24
21. California Attorney General Guidance: Letter to All California Mayors from the Office of the Attorney General, Bill Lockyer, A.G. re “Adoption of a Reasonable Accommodation Procedure
22. HUD’s Office of General Counsel, Office of General Counsel Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency
23. HUD Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services (HUD Guidance on Local Nuisance and Crime-Free Housing Ordinances)
24. DOJ Statement of Interest in Fortune Society
25. California Rules of Court, Rule 5.552
26. HUD Memorandum re: Use of Arrest Records in Screening Program Applicants or Evicting or Terminating Assistance of Tenants of Public and Other HUD-Assisted Housing
27. HUD Notice PIH re: Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions
28. Article 49, San Francisco Police Code
29. “What are Peer Recovery Support Services?”, United States Substance Abuse and Mental Health Services Administration, at <https://store.samhsa.gov/product/What-Are-Peer-Recovery-Support-Services-/sma09-4454>
30. California Building Codes Chapter 11B-108
31. *HUD v. Tucker*, (Aug. 24, 1992 HUDALJ 09-90-1008-1, 09-90-1009-1) 1992 WL 406533
32. Supplement to the Initial Statement of Reasons

The Supplement to the Initial Statement of Reasons is available for public inspection at <http://www.dfeh.ca.gov/fehcouncil> and all documents are available for public inspection at the Department’s Los Angeles office (320 West 4th Street, 10th Floor, Los Angeles, CA 90013) or by contacting Brian Sperber at the addresses listed above from July 3, 2019, through July 18, 2019. If you have any comments regarding these documents, written comments must be submitted to the same addresses listed above by 5:00 p.m. on July 18, 2019.

All written comments received by July 18, 2019, which pertain to the above-listed documents and other information will be reviewed and responded to by the Council as part of the compilation of the rulemaking file.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the February 16, 2018, Notice of Proposed Rulemaking, Initial Statement of Reasons, original proposed text, the notice for the first modified text, the first modified text, the notice for the second modified text, the second modified text, the Updated Initial Statement of Reasons, the attached modified text, and the Supplement to the Initial Statement of Reasons are available on the Council’s Web site at <http://www.dfeh.ca.gov/fehcouncil>.