

Fair Housing Protections for People with Serious Mental Illness, Substance Use Disorder, and Co-occurring Disorders

Updated July 2026

INTRODUCTION: People who are homeless or at risk of homelessness with mental illness or substance use disorder (SUD) often have a difficult time obtaining housing and may face discrimination because of their conditions. There are federal laws that protect people from this type of discrimination and ensure equal access and opportunity to enjoy housing that suits their needs.

Fair Housing Law Overview

Fair housing laws guarantee that people have equal access to housing and can exercise choice in where they want to live. Fair housing laws make it illegal to discriminate in housing transactions based on the following:

- Disability, including serious mental illness (SMI), SUD, and co-occurring disorders (COD)
- Race
- Color
- National origin
- Sex
- Religion
- Family status

These protections are guaranteed by several federal civil rights laws, including the Fair Housing Act and its amendments, Title II of the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973.

In addition, many states and local jurisdictions have further protections for additional protected classes. Attributes that define these classes may include age, source of income, and marital status, among others. You can contact your local tenants' rights or legal aid organizations for more information on local protections.

Protections for People with Disabilities

Many people with SMI, SUD, and COD are considered to have a disability under fair housing laws. You are protected in your housing if the following are true of you:

- You have a physical or mental impairment that substantially limits one or more major life activities
 - ↘ Physical or mental impairments may include, but are not limited to, chronic mental illness; hearing, mobility, and visual impairments; cancer; HIV/AIDS; mental development challenges; addiction to alcohol; or **past** substance use
 - ↘ Major life activities may include functions such as caring for yourself, walking, seeing, hearing, speaking, learning, and working
- You have a history of an impairment
 - ↘ For example, a history of hospitalization for mental illness, even if you don't have a current diagnosis or are in recovery from SUD
- You are regarded as having a substantially limiting impairment, even if you do not
 - ↘ For example, you have an impairing mental illness, but while it does not substantially limit one or more major life activities, you are regarded as though it does; alternatively, you have no impairment but are treated as though you do

It is important to note that federal fair housing laws **do not** protect people who currently engage in the use of illegal drugs, even if that drug use would otherwise meet the qualifications of substantially limiting a major life activity.

Whether or not a person has a disability under these criteria is often decided on a case-by-case basis. The determination of a disability is not directly tied to whether they have a documented disability for purposes of federal assistance, such as Social Security Disability Insurance or Supplemental Security Income.

Identifying When Someone May Be Discriminating Against You

You are protected in many types of housing, including houses, apartments, condos, mobile homes, dorm rooms, nursing homes/assisted living facilities, public housing, and other federally funded housing.

Discrimination can happen at different stages in the process of finding or maintaining housing. If someone does the following ***because of your disability***, it is illegal!

Fair Housing Violations and Potential Signs of Discrimination

Fair Housing Violations at Different Points in Housing Process	Potential Signs of Discrimination
Refusing to rent or sell you housing	Saying a unit is not available for rent when it is Refusing to respond to housing applications or show a unit despite having vacancies
Otherwise making housing unavailable	Restricting people with disabilities to certain units or sections of a building
Setting different terms, conditions, or privileges for sale or rental of a dwelling	Setting a higher rent or security deposit than for others in similar units
Providing different housing services or facilities	Not allowing tenants with disabilities to access onsite facilities (e.g., recreation spaces, laundry room)
Denying request for a reasonable accommodation or reasonable modification without justification	Refusing request even though it is related to a disability and does not cause an undue burden
Evicting or terminating a lease	Refusing to make a reasonable accommodation that would prevent eviction

Sometimes these actions may be lawful, but they could also be discrimination based on your disability.

Making Reasonable Accommodation or Modification Requests

You can request reasonable accommodation or modification to your housing to allow you an equal opportunity for access to and enjoyment of your home.

Differences between Reasonable Accommodations and Reasonable Modifications

Reasonable Accommodation	Reasonable Modification
Reasonable accommodations are changes in the rules or how things are normally done	Reasonable modifications are physical changes to your home or common areas
There must be a connection between the requested accommodation and the disability	The requested modification must be related to the person's disability
Examples: • Allowing a service animal • Allowing flexible application procedures • Changing rent due date to coincide with receipt of disability income • Allowing a tenant additional time to comply with building rules	Examples: • Making physical changes to make a unit quieter, such as putting in carpet or acoustic tiles • Installing graphic signs in addition to written signs
The landlord cannot charge any fees related to providing the requested accommodation	In most circumstances, the landlord can require the tenant to pay for the cost of the modification • Exceptions include if the building receives federal financial assistance or if the building was built for occupancy after 1991 and the modification is covered under construction requirements in effect since that year • The tenant may also be required to restore the unit to pre-modification condition at the end of their tenancy

How to Request a Reasonable Accommodation or Reasonable Modification

Tell your landlord you need a change.

- You can talk to your landlord, use a form they provide, or write a letter with your request
 - ↳ You are not required to make your request in writing, but doing so helps make your accommodation or modification needs clear and ensures you have a record in the event your request is denied or ignored

- If you need help, someone can assist you in making the request or do it for you

Make sure to tell your landlord the following:

- That you have a disability
 - ↳ But you do not have to tell the nature of your disability or give them details
- The rule, policy, or physical barrier that needs to change
- How that rule, policy, or physical barrier is making it hard for you to use or enjoy your home
- How you want the rule, policy, or physical barrier changed
 - ↳ You can ask for more than one change if you need it!

Your landlord can ask you for a doctor's note or other proof of a disability if it is not obvious.
But they cannot ask you about the nature of or details about your disability.

Does the Landlord Have to Make the Change I Request?

A landlord can only deny your request if one or more of the following are true:

- It is not related to a disability
- It causes a large financial or administrative burden
- It fundamentally alters the housing or services
- It is a direct threat to the health or safety of others
- It causes substantial physical damage to the property of others

What to Do if You Think You Experienced Housing Discrimination

You can file a fair housing complaint **at no cost** to you with federal, state, or local agencies.

There are time limits on filing your complaint (typically one year), so don't wait!

You can contact the U.S. Department of Housing and Urban Development's (HUD) [Office of Fair Housing and Equal Opportunity](#) in your area to assist you in filing your complaint. You can file your complaint online, email or mail a complaint form, or call 1-800-669-9777 or 1-800-877-8339. HUD provides accommodations and assistance for people with disabilities, including auxiliary aids and services.

There may also be a [Fair Housing Assistance Program](#) in your state that can assist you.

Learn More

[Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act \[PDF\] | HUD and U.S. Department of Justice](#)

[Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Modifications Under the Fair Housing Act \[PDF\] | HUD and U.S. Department of Justice](#)

[Fair Housing for Individuals with Mental Health, Intellectual, or Developmental Disabilities: A Guide for Housing Providers \[PDF\] | HUD](#)

[Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act \[PDF\] | HUD](#)

[Assistance Animals | HUD](#)

Disclaimer: This resource was supported by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services (HHS) under grant 1H79SM083003-01. The contents are those of the authors and do not necessarily represent the official views of, nor an endorsement by, SAMHSA/HHS, or the U.S. Government. The Homeless and Housing Resource Center (HHRC) would like to thank Homebase for the contribution of their expertise to the development of this resource. This resource was originally released in 2022 and was updated in 2026 to reflect current policy and resources.

Suggested Citation: Homeless and Housing Resource Center, *Fair Housing Protections for People with Serious Mental Illness, Substance Use Disorder, and Co-occurring Disorders*, August 2026, <https://hhrctraining.org/knowledge-resources>.



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Providing high-quality, no-cost training for health and housing professionals in evidence-based practices that contributes to housing stability, recovery, and an end to homelessness.

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