

# HOUSING Q&A

## YOUR CIVIL RIGHTS AS A STUDENT



# FAQ

## A Resource Guide for Students, Parents, and School Communities

### University of California and California State University Responsibilities to Students under California Law

These Questions and Answers are intended to assist universities in meeting their legal obligations to ensure that their housing policies and practices do not discriminate against students based on protected characteristics or prevent or discourage students from seeking university housing.

The California Civil Rights Department encourages students, parents and guardians, high school counselors and mentors, and university communities to communicate with each other and with the University of California and California State University housing services departments across the state and exchange ideas, suggestions, and feedback. The goal is to support universities in implementing clear and consistent housing enrollment policies and practices and creating inclusive and welcoming learning and living environments for all students.

### Definitions

#### 1 | What is a housing provider?

Housing providers are those who have “legal or equitable right of ownership, possession or the right to rent or lease housing accommodations [...]” and include any person defined as such “in a statute, regulation or government program or that is commonly referred to as a ‘housing provider’ in the housing industry.”<sup>1</sup>

#### 2 | Are the University of California and California State University systems considered housing providers?

Yes. As discussed above, University of California (UC) and California State University (CSU) campuses are commonly referred to as housing providers in the housing industry and offer student housing. According to two recent reports from the Legislative Analyst’s Office:

- All UC and CSU campuses offer student housing.<sup>2</sup>
- When considering the UC and CSU system in its entirety, the UC houses the greatest share of its undergraduate students (37% during the 2021-22 school year).<sup>3</sup>
- The share of undergraduate students living in university housing ranges from 22% at UC Irvine to 51% at UCLA.<sup>4</sup>
- Approximately 15% of CSU students live in on-campus housing.

#### 3 | What is a housing accommodation or dwelling?

Housing accommodations, also known as dwellings, are any “building, structure, or portion thereof that is used or occupied as, or designed, arranged, or intended to be used or occupied as, a home, residence, or sleeping place...”<sup>5</sup>



1 2. C.C.R. § 12005(v)(4).

2 Legislative Analyst’s Office. (2023). The 2023-24 Budget: Student Housing. <https://lao.ca.gov/reports/2023/4733/Student-Housing-030923.pdf>

3 Legislative Analyst’s Office. (2022). The 2022-23 Budget: Student Housing. <https://lao.ca.gov/reports/2022/4589/Student-Housing-040822.pdf>

4 Legislative Analyst’s Office. (2022). The 2022-23 Budget: Student Housing. <https://lao.ca.gov/reports/2022/4589/Student-Housing-040822.pdf>

5 2. C.C.R. § 12005(o)(2).

## 4 | What are some examples of housing accommodations or dwellings?

Housing accommodations include, but are not limited to:

- Housing cooperatives
- Rooms used for sleeping purposes
- Single room occupancy hotel rooms
- Rooms in which people sleep within other types of dwellings in which sleeping accommodations are provided but bathrooms and cooking facilities are shared
- Bunkhouses
- Dormitories
- Sober living homes
- Transitional housing and
- Supportive housing, among others<sup>6</sup>

## 5 | What is a protected characteristic and what does it mean to be discriminated against based on a protected characteristic?

Under state and federal fair housing laws, housing providers cannot discriminate against you because of your protected characteristics, which include your race, color, religion, sex, gender, familial status, and disability. California law prevents discrimination based on many additional protected characteristics including gender identity, gender expression, immigration status, and source of income.

Protected characteristics might also be referred to as protected classes, bases, or groups. Members of these groups – as well as those perceived as belonging to these groups and those associating with members of these groups, such as roommates, friends, or family – are protected from discrimination under state and federal fair housing laws. This means by law, a housing provider cannot discriminate against you or someone associated with you – e.g., by denying you access to housing, subjecting you to a different policy or practice or increasing your monthly rent – due to your actual or perceived protected characteristics.

## 6 | What does “actual or perceived protected characteristic” mean?

Let’s say a housing provider has a practice of charging all tenants whom they believe to be of Guatemalan origin an additional \$200 per month in rent. You identify as Honduran American but, when you move in, the housing provider thinks you are of Guatemalan origin and applies the rent increase to you. You could allege in this instance that your housing provider discriminated against you because of your perceived membership in a protected class – i.e., because they perceived you to be of Guatemalan origin and raised your rent consistent with their practice of raising the rent for all tenants of Guatemalan origin – even though you identify as Honduran American, not Guatemalan American. Such a practice would be unlawful under the Fair Employment and Housing Act.<sup>7</sup>

## 7 | When I apply for university housing, what documents are housing providers allowed to ask that I include in my application? What documents are housing providers prohibited from requesting that I include as part of my application?

Please find below examples of documentation that housing providers may request that you provide as part of your university housing application as well as documentation they may not request. Please note this is not a comprehensive list of all documents that may or may not be requested.<sup>8</sup>

Documentation that may be requested	Documentation that may <u>not</u> be requested
<ul style="list-style-type: none"> <li>• Application fee</li> <li>• Application form</li> <li>• Security deposit</li> <li>• Residence hall contract</li> <li>• Identification (please note, housing providers may not require US-issued identification)</li> </ul>	<ul style="list-style-type: none"> <li>• Medical records</li> <li>• Proof of legal immigration status in the United States or documentation related to immigration status</li> <li>• Proof of employment</li> <li>• Proof of several years of steady employment</li> </ul>

6 2. C.C.R. § 12005(o)(2).

7 2. C.C.R. § 12041.

8 The California Civil Rights Department. Know Your Top Fair Housing Rights. [https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Housing-Rights-Booklet\\_English.pdf](https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Housing-Rights-Booklet_English.pdf).

## Section 8 Vouchers and Source of Income Discrimination

### 8 | If I apply to live in university housing, are University of California and California State University campuses required to accept Section 8 vouchers or other housing choice vouchers?

It depends on the type of university housing you are applying for.<sup>9</sup> As of January 1, 2020, it is unlawful for housing providers to discriminate based on source of income in California.<sup>10</sup> However, while the federal regulations governing the use of Section 8 vouchers prohibit the use of vouchers in most university-provided housing, there have been instances where source of income protections have applied to university housing providers.<sup>11</sup> Upon receipt of a student's application to live in university-provided housing, the University of California and California State University housing services departments should conduct an individualized assessment to determine whether a student's housing choice voucher may be accepted.

For more information about your rights related to source of income, please consult guidance from the California Civil Rights Department.<sup>12</sup>

## Protections for LGBTQ+ Students

### 9 | As a college student who identifies as transgender, am I protected from housing discrimination?

Yes, you are. The Gender Nondiscrimination Act took effect in 2012 in California and prohibits discrimination on the basis of gender identity and gender expression in such areas as housing, employment, education, insurance, and public accommodations. California law prohibits discrimination against tenants based on their actual or perceived gender identity.<sup>13</sup> What this means is that a housing provider cannot take such actions as evict you, refuse to rent to you, increase your rent, or otherwise vary the terms or conditions of your housing accommodation due to your gender identity or gender expression.

For more information about your rights as an LGBTQ+ student, please consult guidance from the California Civil Rights Department.<sup>14</sup>



<sup>9</sup> 24 C.F.R. § 982.352.

<sup>10</sup> 2. C.C.R. § 12141(a).

<sup>11</sup> Torregano, T. (2023, September 13). UCLA student settles housing discrimination case for right to use Section 8. Spectrum News 1. <https://spectrumnews1.com/ca/southern-california/education/2023/09/14/ucla-student-settles-housing-discrimination-case-for-right-to-use-section-8>

<sup>12</sup> Civil Rights Department. (2020). Source of Income FAQ. [https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2020/02/SourceofIncomeFAQ\\_ENG.pdf](https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2020/02/SourceofIncomeFAQ_ENG.pdf)

<sup>13</sup> The Transgender Law Center. FAQ: The Gender Nondiscrimination Act. <https://transgenderlawcenter.org/resources/employment/know-your-rights/faq-the-gender-nondiscrimination-act/>

<sup>14</sup> The California Civil Rights Department. California Protects the Civil Rights of LGBTQ+ people. [https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2020/06/LGBTQ-Fact-Sheet\\_ENG.pdf](https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2020/06/LGBTQ-Fact-Sheet_ENG.pdf)

## Identification as Students with Disabilities

### 10 | What does it mean to have a disability under California law?

Under California law, disability is broadly construed. Mental disability is a mental or psychological disorder or condition that limits a major life activity. Physical disability is a physical disorder or condition that (a) affects one or more body systems, and (b) limits a major life activity. These body systems are the neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, circulatory, skin, and endocrine systems.<sup>15</sup>



### 11 | Is there such a thing as a special education disability?

Yes, there is. A special education disability is any other recognized health impairment or mental or psychological disorder not otherwise described in the regulations referenced in Question 10 that requires or has required special education and/or related services in the past. Examples could include significant difficulties listening, speaking, writing, doing math or perceptual disability, such as dyslexia.<sup>16</sup>

### 12 | I had a Section 504 plan in high school and my best friend had an IEP. We're both attending the same college in the fall. Since there's such a thing as a special education disability, does that mean that our college housing provider has to approve any accommodation we request as students with disabilities?

No, not necessarily. Having a Section 504 plan or an Individualized Education Program (IEP) in high school does not mean that you will automatically be provided auxiliary aids or academic adjustments in your college classes or a reasonable accommodation or modification in a housing setting. However, as a general rule, colleges are required to provide academic adjustments in the classroom when necessary to make sure that they do not discriminate against students with disabilities.<sup>17</sup>

Similarly, if a college or university provides housing to students who do not have disabilities, it must provide comparable housing to students with disabilities at the same cost (i.e., students with disabilities cannot be charged more to live in college or university housing than students without disabilities).<sup>18</sup>

To request an academic adjustment or auxiliary aid in the classroom or a reasonable accommodation or modification in a housing setting, you must (a) identify yourself as an individual with a disability and (b) explain that you need an auxiliary aid or academic adjustment in the classroom and/or a reasonable accommodation or modification in a housing setting. Please note that while in elementary, middle school or high school, the responsibility falls on your school district to exercise its "child find" responsibilities to identify, locate and assess all students who need special education and/or related services, in college the responsibility falls on you, the college student, to self-identify as a student with a disability and request an academic adjustment or auxiliary aid in the classroom and/or a reasonable accommodation or modification in a housing setting.<sup>19</sup>

Since the college/university departments that handle requests for auxiliary aids/academic adjustments in the classroom and reasonable accommodations or modifications in a housing setting are likely different, make sure to send your request to the correct department.

Please see Question 13 for more information about the process for requesting a reasonable accommodation or modification in a housing setting.

<sup>15</sup> 2. C.C.R. § 11065.

<sup>16</sup> 2. C.C.R. § 11065.

<sup>17</sup> The Office for Civil Rights, US Department of Education. (2011). Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities. <https://www2.ed.gov/about/offices/list/ocr/transition.html>

<sup>18</sup> The Office for Civil Rights, US Department of Education. (2011). Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities.

<sup>19</sup> Cal. Educ. Code § 56301(a).

## Requests for Reasonable Accommodations or Modifications

### 13 | I'm a college student with a disability and I live in on-campus university housing. I heard that I could ask for a reasonable accommodation or modification. What are those and could you provide examples?

Yes, you are correct that as a college student with a disability, you are entitled to request a reasonable accommodation or modification of your university housing provider.

- A reasonable accommodation is “an exception, change, or adjustment in rules, policies, practices, or services” that gives an individual with a disability an equal opportunity to obtain, use or enjoy a housing accommodation or opportunity.<sup>20</sup>
- A reasonable modification is a “change, alteration or addition to the physical premises of an existing housing accommodation” that gives an individual with a disability an equal opportunity to obtain, use or enjoy a housing accommodation or opportunity.<sup>21</sup>

Examples of reasonable accommodations and modifications may include, but are not limited to:

- A single room
- An assigned parking space that is close to your apartment
- A ground-floor room or apartment
- A semi-private bathroom
- A more accessible mailbox (e.g., one that is lower and easier to reach)
- Access to a kitchen
- Access to an alarm that includes visual or auditory notifications as needed (e.g., a noise instead of a flashing light, or vice versa)
- Assignment in a building with access to an elevator

Examples of reasonable modifications may include, but are not limited to:

- Lower kitchen cabinets that are easier to reach
- Grab bars in the restroom and/or shower
- A non-slip floor in the shower
- A hand-held shower head
- A wider doorway so a wheelchair may pass through



### 14 | How do I ask for a reasonable accommodation or modification?

- Make the request, either orally or in writing.
- The request does not have to be made in a particular manner (e.g., using a particular form) or at a particular time (e.g., before you move into on-campus housing).
- You don't have to use the words “reasonable accommodation” or “reasonable modification.”
- If you or someone you choose to act on your behalf (e.g., a family member) asks for an “an exception, change or adjustment to a practice, or a modification to an existing housing accommodation, due to a disability,” such a request would constitute a request for a reasonable accommodation or modification, regardless of whether you use those particular words.<sup>22</sup>

20 2. C.C.R. § 12176(a).

21 2. C.C.R. § 12176(b).

22 2. C.C.R. § 12176(f).

## 15 | Can I make a reasonable accommodation or modification request at any time or only before I move into my dorm?

Yes, you can make your request for a reasonable accommodation or modification anytime – not just when you are inquiring about places to live or during the application process for your dorm, apartment, or other housing accommodation.<sup>23</sup> You can also make your request after you have moved in. Housing providers' duty to provide reasonable accommodations or modifications is ongoing, as some students with disabilities will require one accommodation or modification and others may need more than one.<sup>24</sup>

## 16 | I've submitted a request for a reasonable accommodation. What happens next?

Once you submit your request for a reasonable accommodation or modification, four things may happen. Your housing provider may:

- a) Grant your request immediately.
- b) Contact you with questions about or to request clarification of or further documentation in support of your reasonable accommodation or modification request. This is called "engaging in the interactive process." What this means is if, upon receipt of your request for a reasonable accommodation, a housing provider does not grant it immediately, they are required to engage in back-and-forth communication with you to evaluate your reasonable accommodation request and then grant or deny it. This process must be timely and conducted in good faith. As part of the process, the housing provider must consider your request promptly, and not deny your request if they need additional information or clarification from you to evaluate it. Rather, they must seek clarification or additional information from you and give you a reasonable opportunity to provide that information.
- c) Identify an equally effective accommodation to the one you have requested if, after engaging in the interactive process with you as described above, they have a valid reason for not granting your reasonable accommodation request.<sup>25</sup> "Equally effective" means that the proposed alternative accommodation would give you the opportunity to use and enjoy your housing as well as the one you requested.
- d) Deny your request. Your request may be denied if there is no link between your disability and the reasonable accommodation or modification, the reasonable accommodation would constitute a direct threat to other people's health or safety or substantial physical damage to other people's property, you do not pay for the reasonable modification unless not required to do so, or the reasonable accommodation or modification poses an undue financial burden or involves a fundamental alteration.<sup>26</sup>

Please note, if your housing provider requests clarification or additional relevant information to evaluate your request, you should provide this information. Failure to do so may be grounds for the housing provider to deny your request. You might consider providing a note from a medical or mental health professional substantiating your need for a reasonable accommodation or modification. Please review Questions 7 and 13 for further guidance.

Also, if the housing provider denies your reasonable accommodation request, offers a valid reason for doing so and offers you what they believe to be an equally effective alternative, you are not required to accept it if you don't feel it meets your needs, and are entitled to renew your original reasonable accommodation request at another time.<sup>27</sup>

23 2. C.C.R. § 12176(f).

24 2. C.C.R. § 12176(f).

25 2. C.C.R. § 12179.

26 2. C.C.R. § 12179.

27 2. C.C.R. § 12179.



## 17 | What information or documents may a housing provider ask for when processing my request for a reasonable accommodation or modification?

If your disability is apparent or known by the housing provider but your need for a reasonable accommodation or modification is not, the housing provider may only request information that:

- Describes the accommodation or modification that you are requesting and
- Makes a connection between your disability and how the accommodation or modification that you are requesting is necessary to give you an equal opportunity to use and enjoy your place of residence<sup>28</sup>

If your disability is not apparent or known by the housing provider, they may, in addition to the two items above, request only information that is necessary to establish that you have a disability.<sup>29</sup>

## 18 | Is my housing provider required to keep the information I shared as part of my reasonable accommodation or modification request confidential?

Yes, the information you shared with the housing provider should not be shared with those who aren't involved in the interactive process or the decision-making for your request for a reasonable accommodation or modification unless disclosing the information is:

- Required as part of the decision-making process
- Required to implement the accommodation or modification
- Authorized by you or the person who made the request on your behalf
- Required by law<sup>30</sup>

## 19 | If I request a reasonable modification, such as lower kitchen cabinets, due to my disability and my housing provider approves my request, are they required to pay for the modification?

Not necessarily. Whether you are required to pay may depend in part on whether you live in federally subsidized housing or private housing. There are some instances where an owner is required to pay for a reasonable modification and others where you, as the tenant, are required to pay.<sup>31</sup> When you move out, you may be required to remove the modifications that you put in place – for example, raise the kitchen cabinets back to where they were when you moved in.<sup>32</sup>



28 2. C.C.R. § 12178.

29 2. C.C.R. § 12178.

30 2. C.C.R. § 12176(e).

31 2. C.C.R. § 12181(h).

32 2. C.C.R. § 12181(a).

## Service Animals and Support Animals

### 20 | What is the difference between service animals and support animals?

Both service animals and support animals (also known as “emotional support animals” or “comfort animals”) fall under the umbrella of “assistance animals.” An assistance animal is not a pet – rather, it is “an animal that works, provides assistance, or performs tasks for the benefit of an individual with a disability, or provides emotional, cognitive, or similar support that alleviates one or more identified symptoms or effects of an individual's disability.”<sup>33</sup>

Service animals are animals who are “trained to perform specific tasks to assist individuals with disabilities, including individuals with mental health disabilities.”<sup>34</sup> They do not have to be professionally trained or certified and may be trained by the individual with a disability or someone else.

Support animals are animals that “provide emotional, cognitive, or other similar support to an individual with a disability.”<sup>35</sup> They do not need to be trained or certified.

For more information about emotional support animals, please consult guidance from the California Civil Rights Department.<sup>36</sup>

### 21 | I am a high school senior with a disability and I have a service dog named Aragon, who is a golden retriever. When I go to college next year, I plan to live in university housing and want Aragon to live with me. Am I allowed to make that request?

Yes. You are entitled to make a request of your university housing provider that Aragon live with you in university housing.<sup>37</sup> The only permissible questions that your housing provider may ask you about Aragon are:

- Are you an individual with a disability (when you reply, you are not required to disclose your disability)? and
- What is the disability-related task that the animal has been trained to perform (when you reply, you are not required to ask your dog to demonstrate the task)?<sup>38</sup>

### 22 | I am a freshman in college with a disability and I have a cat named Marmalade who is a large orange-and-white tabby. Marmalade is very supportive and comforting and I would like her to live with me in my college dorm. What should I do?

You have the right to file a reasonable accommodation request for Marmalade to live with you in your dorm. Please review questions 13-16 and 20 for further guidance.

### 23 | If my assistance animal is approved to live with me, do I need to pay extra?

No, you don't. If your assistance animal is approved to live with you, you may not be required to pay a pet fee or any additional fee, such as an additional security deposit or liability insurance, due to the assistance animal. You also may not be charged additional rent if you are approved to live with an assistance animal.<sup>39</sup>

For more information about fees and rent for emotional support animals, please consult question 10 of the guidance from the California Civil Rights Department.<sup>40</sup>

33 2. C.C.R. § 12005.

34 2. C.C.R. § 12005.

35 2. C.C.R. § 12005.

36 The California Civil Rights Department. Emotional Support Animals and Fair Housing Law. [https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Emotional-Support-Animals-and-Fair-Housing-Law-FAQ\\_ENG.pdf](https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Emotional-Support-Animals-and-Fair-Housing-Law-FAQ_ENG.pdf)

37 2. C.C.R. § 12185.

38 2. C.C.R. § 12185.

39 2. C.C.R. § 12185.

40 The California Civil Rights Department. Emotional Support Animals and Fair Housing Law. [https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Emotional-Support-Animals-and-Fair-Housing-Law-FAQ\\_ENG.pdf](https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Emotional-Support-Animals-and-Fair-Housing-Law-FAQ_ENG.pdf)



## Examples of Requests for Reasonable Accommodations

### **24 | I'm a high school senior with a disability. I'm going to a University of California campus in the fall and I would like to request a single room due to my disability. May I make that request?**

Yes, you may make a reasonable accommodation request for a single room following the process outlined in questions 13-16. In your request, explain the link between your disability and your request for a single room and how your request is related to a disability-related need. As previously stated, your housing provider is required to assess your request in good faith and provide you with a response in a timely manner.

### **25 | I'm a college freshman who attends a University of California campus where all first years who live in on-campus housing are required to be on the meal plan. I have a severe nut allergy that can affect my ability to breathe and swallow if I eat food that has been contaminated by nuts. May I make a reasonable accommodation request to be exempt from the meal plan?**

Yes, you may make a reasonable accommodation following the process outlined in questions 13-16. In your request, explain your disability-related need to be exempt from the meal plan and have access to kitchen facilities that enable you to prepare nut-free dishes. As previously stated, your housing provider is required to assess your request in good faith and provide you with a response in a timely manner.

### **26 | I'm a college sophomore at a California State University campus. I have a disability that affects my mobility. As such, I need to request a reasonable accommodation to live on the first floor of a university residency hall. May I make such a request?**

Yes, you may make a reasonable accommodation request following the process outlined in questions 13-16. In your request, describe the link between your disability and your need for a first-floor accommodation. As previously stated, your housing provider is required to assess your request in good faith and provide you with a response in a timely manner.

