



# DISABILITY LAW CENTER

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## Your right to fair housing

This guide was written by the Disability Law Center (DLC), a private non-profit organization designated by the governor to protect the rights of people with disabilities in Utah. The DLC envisions a society where abilities rather than disabilities are emphasized; where all people have an equal opportunity to participate in society; and where all people are treated with equity, dignity and respect for their expressed choices.

This publication is to help people with disabilities understand some of their housing rights and how to ask for the accommodations or modifications available to them. Please keep in mind that this guide is intended to answer some basic questions so that individuals with disabilities can understand some of their rights and understand what to do if their rights have been violated. This guide is informational only and is not intended to be legal advice.

For more information, please call the DLC at 1-800-662-9080 (voice) or 1-800-550-4182 (TTY).

Discrimination happens when some people are treated differently than others because of their race, color, religion, sex, national origin, familial status, disability or source of income.

If no one reports discrimination, it can't be stopped!

As a person with a disability, you have the right to housing programs and services in your community. You also have the right to ask for reasonable accommodations and modifications to rules and policies so that you can use these programs. But what does all of this mean?

- What are your rights?
- How do you know if you qualify as “a person with a disability” under these laws?
- What is a “reasonable accommodation?”
- What is a “modification of policy?”
- What do you do if you feel your rights have been violated?

There are many laws about housing. This guide does not list all of those laws. This guide was developed to:

- list some of the laws that apply to housing
- help people determine if they qualify as “a person with a disability” under these housing laws
- explain reasonable accommodations and modifications
- explain how to file complaints if rights have been violated

## **Knowing whether you have been discriminated against on the basis of a disability may be confusing.**

For example:

A renter uses a wheelchair for mobility, feels that his landlord is rude to him and the landlord always ignores his complaints regarding leaky pipes in his apartment. Is this discrimination?

To answer this question, many other questions need to be answered first. Is it the landlord’s nature to be rude to everyone? What does “rude” mean in this situation? Is the landlord saying things like: “I don’t think people with disabilities should be in my apartments,” or is he saying things like, “Renters always want more than I want to give.” Does the landlord fix the leaky pipes for other tenants but not for the person with a disability? Or, does the landlord not fix anyone’s leaky pipes?

If the landlord is treating the person with a disability differently than other tenants because of a disability, or, if he is not fixing the pipes as an attempt to discourage the person with a disability from staying in the apartment, it may be discrimination.

However, if the landlord is not fixing the pipes in any of the apartments and makes rude comments to everyone, it may be a violation of basic tenant’s rights, but not necessarily discrimination because of disability.

In both situations, a renter has legal rights. It is important to know what protections you have when you are fighting for your rights.

## **To understand disability laws, and who is protected under these laws, it may be helpful to understand some definitions.**

The Fair Housing Amendments Act provides a definition of “an individual with a disability”.

### **Disability**

Disability means, with respect to an individual:

1. a physical or mental impairment that substantially limits one or more of the major life activities of such individual
2. a record of such an impairment; or
3. being regarded as having such an impairment

Each of these terms has a definition too.

#### **‘Physical or mental impairment’ means**

1. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs) cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin and endocrine; or
2. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

#### **‘Major life activities’ means**

1. functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

#### **‘Substantially limits’ means**

1. unable to perform a major life activity that the average person in the general population can perform. Or significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.
2. The following factors should be considered in determining whether an individual is substantially limited in a major life activity:
  - the nature and severity of the impairment;
  - the duration or expected duration of the impairment; and
  - the permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment.

## **Reasonable Accommodations**

Reasonable accommodations are changes in rules, policies, or services so that a person with a disability may have an equal opportunity to use and enjoy housing. The change must be practical and do-able. Some examples of reasonable accommodations are:

- changing a “no pets” rule to allow a companion dog for someone with a psychiatric disability
- keeping a laundry room door closed so that fumes do not make someone who is chemically sensitive ill
- providing notices in large print to tenants

## **Reasonable Modifications**

You have the right to make reasonable modifications to your housing or common areas such as the lobby, main entrance, or laundry room at your expense if they are necessary for full use of your housing.

Before giving approval for reasonable modifications, the owner can ask for certain assurances, like:

- confirmation that the work will be done properly
- asking you to get any necessary building permits
- asking you to restore the unit – but not common areas- after you leave unless it is not reasonable to do so (as in narrowing a doorway you have widened)
- asking you to set aside a reasonable amount of money over a reasonable time in an interest bearing escrow account to pay for restoration

Some examples of reasonable modifications are:

- lowering cabinets to a height usable by someone who uses a wheelchair
- installing grab bars in the bathroom when someone has limited mobility
- lowering light switches and thermostats so that a person using a wheelchair can reach them

## **Here are some of the laws that protect people with disabilities**

### **Fair Housing Act**

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal custodians, pregnant women, and people securing custody of children under the age of 18) and disability.

Some violations of this law include:

- refusal to rent or sell
- stating that housing is unavailable when in fact it is available
- showing apartments or homes in certain neighborhoods only
- advertising housing to preferred groups of people only
- refusing to provide information regarding mortgage loans
- denying a mortgage loan or imposing different terms or conditions on a mortgage loan
- denying property insurance
- conducting property appraisals in a discriminatory manner
- refusing to make certain modifications or accommodations for a person with a mental or physical disability, including persons recovering from alcohol and substance abuse, and HIV/AIDS-related illnesses
- failing to design and construct new apartments in an accessible manner
- harassing, coercing, intimidating, or interfering with anyone exercising or assisting someone else with their fair housing rights

It is a violation of the law if these actions were actions based on:

- race
- color
- national origin
- religion
- sex
- familial status (families with children under the age of 18, or who are expecting a child)
- disability (for you or someone close to you)

There are a few exemptions to this law.

- A landlord can only discriminate against tenants with children if the property meets the following criteria:
  - the housing is intended solely for persons 62 years old or above;
  - 80% of the units have at least one occupant 55 years old or above; and
  - the building has age restrictions
- individuals who own three single family homes or less at any one time
- owner-occupied buildings that have four units or less (The owner must reside in one of the units.)
- religious organizations and private clubs may be exempt
- a restriction on the sale or rental of property owned by groups may be limited to their members, if they meet the federal guidelines. Anyone who seeks to use this exception to Fair Housing Law should confirm it with competent legal counsel first, an error in interpretation could prove costly

### **Section 504 of the Rehabilitation Act of 1973**

Section 504 prohibits discrimination on the basis of disability in programs and activities conducted by HUD or that receive financial assistance from HUD. Some violations of this law include:

- any HUD funded program not allowing access to the program
- any HUD activity not allowing access to the activity

It is a violation of the law if the denial was based on:

- disability

### **Title VI of the Civil Rights Act of 1964**

Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. Some violations of this Act include:

- exclusion from participation in federal financially assisted programs
- denial of benefits of federal financially assisted programs
- discrimination under federal financially assisted programs

It is a violation of the law if these actions were actions based on:

- race
- color
- national origin

## **Section 109 of Title I of the Housing and Community Development Act of 1974**

Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance.

*Note:* Section 109 does not directly prohibit discrimination on the basis of age or disability. See the Age Discrimination Act of 1975 for age discrimination issues.

Some violations of this Section include:

- exclusion from participation in any program or activity funded in whole or part with Federal financial assistance
- denial of benefits of any program or activity funded in whole or part with Federal financial assistance
- being subjected to discrimination under any program or activity funded in whole or part with Federal financial assistance

## **Title II of the Americans with Disabilities Act of 1990**

Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. Some violations of the Act include:

- exclusion of an individual with a disability from the benefits of a public entity
- exclusion of an individual with a disability from the services of a public entity
- exclusion of an individual with a disability from the programs of a public entity
- being subjected to discrimination by a public entity

## **Architectural Barriers Act of 1968**

The ABA requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds must be accessible to and useable by persons with disabilities. Some violations of this Act include:

- architectural standards not being met in new and altered buildings and in newly leased facilities

*Note:* ABA does not address the activities conducted in those buildings and facilities.

## Utah Fair Housing Statute

The Utah Fair Housing Statute is to protect and assure that all individuals have equal opportunity to access housing regardless of race, color, sex, national origin, disability, religion, familial status, or source of income. Some violations of this Statute include preventing a person from:

- inspecting or renting an apartment
- viewing or purchasing a home
- applying for or securing a home loan
- purchasing homeowner insurance
- buying
- selling
- leasing
- lending (real estate transactions)
- obtaining homeowner's or renters insurance

Other violations may include exclusion through:

- zoning ordinances
- applications for building permits
- design and construction
- different services and facilities
- false denial that housing is available
- blockbusting
- denial of access/membership in facility or service regarding sale or rental of housing
- discriminatory appraisals
- discriminatory advertising/statements
- failing to make a mortgage loan
- making housing unavailable
- denial of a dwelling
- different terms or conditions
- applications
- applying different criteria to qualify as an applicant
- setting different rent amounts
- discriminatory evictions
- discriminatory application of rental policies and practices
- harassment

It is a violation of the law if these actions were based on:

- race
- color
- national origin
- religion
- sex
- familial status
- disability
- source of income

It is a violation of the law if these actions involve these types of housing:

- single family units
- multi-family units
- association based ownership

## **A special note about service animals and support animals**

### **Service Animals**

A service animal is any guide dog, signal dog or other animal trained to do work or perform tasks for the benefit of an individual with a disability, including but not limited to guiding individuals with impaired vision, alerting individuals with impaired hearing, providing minimal rescue or protection work, pulling a wheelchair, or fetching dropped items.

Service animals are not pets—they do perform some of the things that people with disabilities cannot do for themselves. If service animals meet this definition—regardless of whether they have been licensed or certified by state or local government—they are considered service animals under the ADA.

Service animals that assist people with disabilities are considered to be “auxiliary aids” and are exempt from the “no-pet policy.” Also, no deposit can be charged for a service animal. Examples of service animals include guide dogs for persons with vision impairments and hearing dogs for people with hearing impairments.

Some service animals, but not all, wear special collars and harnesses. Some, but not all, are licensed or certified and have identification papers. But, such documentation cannot be required as a condition of providing service to a person accompanied by a service animal. Businesses may ask the person who has the animal if it is a service animal required because of the person’s disability. Likewise, proof of state certification cannot be required before a service animal is allowed to accompany a person with a disability.

### **Support Animals**

If a person with a disability needs an emotional support animal to ease the symptoms of a disability s/he should request a reasonable accommodation, in writing, from the landlord, manager or other appropriate authority. The request should state that the tenant has a disability and explain how the requested accommodation will be helpful. In addition, the tenant should include a note from his/her medical provider, such as a doctor or therapist, verifying the need for the support animal. The tenant need not disclose the details of the disability, nor provide a detailed medical history.

Establishing that the support animal is necessary in order to use and enjoy the residence is critical. Courts have consistently held that a tenant requesting an emotional support animal as a reasonable accommodation must show a relationship between his ability to function and the companionship of the animal.

Although the landlord is entitled to ask for materials that document the need for an emotional support animal, federal law does not require the tenant to provide proof of training or certification of the animal.

In reviewing a tenant’s request for emotional support animal as a reasonable accommodation, the landlord can consider the administrative, financial, or programmatic repercussions of allowing an animal onto the premises, including the potential disturbance to other tenants. Typically, a landlord will have a difficult time establishing that an emotional support animal constitutes a fundamental alteration or undue burden.

Any damage to the unit or property caused by the animal will be the responsibility of the tenant. If the emotional support animal is particularly disruptive, or the tenant fails to take proper measures to ensure that the animal does not bother other tenants (from noise or waste for example), the landlord may be justified in denying the accommodation or ultimately filing for an eviction.

Tenants in federally assisted housing for the elderly or persons with disabilities are allowed pets, and landlords are entitled to charge a deposit for that pet to cover any resulting damage of the property. However, if a pet is more properly characterized as a “service animal” the tenant should be exempt from the deposit.

## **Here is a sample letter that can be used to request a reasonable accommodation in housing**

DATE

NAME OF BUILDING MANAGER  
ADDRESS

Re: Reasonable Accommodation for my disability

Dear BUILDING MANAGER NAME:

I live at ADDRESS in UNIT NUMBER and have lived there since DATE. I am a qualified individual with a disability, as defined by the Fair Housing Amendments Act of 1988. By this I mean I have NAME OF DISABILITY.

Our building's rules state XXX. Because of my disability, I need the following accommodations: LIST ACCOMMODATIONS. A medical provider has prescribed this accommodation for my disability. I would like to meet with you to discuss these and any other accommodations that will enable me to have an equal opportunity to live in and enjoy this residence.

Please let me know what, if any, additional information you need from my health care provider in order to better understand my disability and the limitations it imposes.

Under the Fair Housing Amendments Act, it is unlawful discrimination to deny a person with a disability a reasonable accommodation of an existing building rule or policy if such accommodation may be necessary to afford such person full enjoyment of the premises.

Please keep this request for accommodation confidential, as required by federal law. Please contact me within the next ten days to discuss this important issue. I look forward to your response and appreciate your attention to this matter.

Sincerely,

*Signature*

Resident Name

**If you feel your rights in housing have been violated and you want to file a complaint, you can contact the Fair Housing section of Utah Antidiscrimination and Labor Division (UALD)**

Utah Antidiscrimination and Labor Division  
Heber M. Wells Building  
160 East 300 South 3rd Floor  
P. O. Box 145540  
Salt Lake City, Utah 84114-6640  
801-530-6808  
1-800-530-7685  
TTY 801-530-7685  
ppaarsell@utah.gov

The focus UALD's Fair Housing section is to administer and enforce Utah's Fair Housing Act. The Act prohibits discrimination on the basis of race, religion, color, sex, national origin, familial status, disability or source of income in the rental, purchase and sale of real property.

Additionally, based on a memorandum of understanding and a cooperative agreement with the U. S. Department of Housing and Urban Development and UALD, the division is authorized to enforce the provisions of Title VIII of the 1968 federal Fair Housing Act.

UALD receives, mediates (for early resolution), investigates, and resolves charges of housing discrimination. It also acts as a source to resident seekers, property managers, and owners concerning laws that prohibit housing discrimination.

Compliance through educational presentations has effectively been utilized by Fair Housing as a means to encourage voluntary compliance.

Alternative Dispute Resolution has also been utilized to effectively resolve housing discrimination complaints.

**Complaints regarding discrimination based on a disability must be filed with UALD within 180 days and with HUD within 1 year!**

## Be Prepared for a UALD complaint

If you plan to file a complaint with UALD, you should be prepared to provide the following information:

Name of complainant: \_\_\_\_\_

Address of complainant \_\_\_\_\_

Telephone number of complainant \_\_\_\_\_

A brief description of the incident \_\_\_\_\_

Name of person you are complaining about \_\_\_\_\_

Address of person you are complaining about  
\_\_\_\_\_

Telephone number of respondent \_\_\_\_\_

To file a charge, UALD requires the property address and the names of any individuals you spoke with (managers, owners, etc.)

\_\_\_\_\_

name	address
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\_\_\_\_\_

name	address
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Gather any and all relevant documents such a lease agreements, receipts, letters, notices, etc.

Witnesses contact information;

\_\_\_\_\_

name	address	telephone
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\_\_\_\_\_

name	address	telephone
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A written statement in chronological order with as much detail as possible (names, dates, places, etc) as to what has happened.

## **Resources**

### **Utah Legal Services**

Utah Legal Services (ULS) provides advice and representation in civil cases to low-income Utahns. ULS's landlord/tenant services focus on improper evictions, self-help lockouts and tenants living in substandard or dangerous housing.

Utah Legal Services  
205 North 400 West  
Salt Lake City, Utah 84103  
801-328-8891  
1-800-662-4245

### **Disability Law Center**

If you have questions about rights in housing, you may contact the Disability Law Center. The DLC is a private non-profit organization designated by the governor to protect the rights of people with disabilities in Utah.

If you are not happy with any service you received or any decision made by the Disability Law Center, you have the right to file a grievance. If you would like to file a grievance, we will send you a form for this purpose and a copy of our grievance policy.

For more information, please contact the DLC, 1-800-662-9080 (voice) or 1-800-550-4182 (TTY) [www.disabilitylawcenter.org](http://www.disabilitylawcenter.org), 205 North 400 West, Salt Lake City, Utah 84103.