

# Guidance on Preventing Housing Discrimination Based on Source of Income

The Office of the Attorney General is issuing this updated Guidance to help residents and landlords understand the legal protections provided for people who receive housing subsidies through programs such as “Section 8,” and other forms of public assistance. Housing subsidy programs play a crucial role in reducing poverty and homelessness, while fostering long-term economic stability for individuals and families in Massachusetts. By ensuring access to affordable housing, these programs help recipients maintain stable living conditions, which directly impacts educational opportunities, health outcomes, and workforce participation. Moreover, housing subsidy programs strengthen communities by reducing displacement and strengthening the social safety net. Legal protections for tenants receiving housing subsidies are essential to ensure the success of these programs, and compliance from housing providers is vital to safeguarding the benefits these programs deliver to individuals, families, and communities across Massachusetts.

The Office of the Attorney General enforces the Commonwealth’s fair housing and consumer protection laws. If you believe that your rights have been violated, we encourage you to file a complaint with the Attorney General’s Civil Rights Division. There are many ways to reach us:

**Online:** Complete an E-Complaint at <https://www.mass.gov/how-to/file-a-civil-rights-complaint>;

**By Mail:** Send a completed Civil Rights Complaint form to the Civil Rights Division at One Ashburton Place, 18th Floor, Boston, MA 02108;

**By E-mail:** Email a completed Complaint form to the Civil Rights Division at [civilrights@mass.gov](mailto:civilrights@mass.gov);

**By Phone:** Call (617) 963-2917. The Civil Rights Division receives a large number of complaints, and the time it takes to review each complaint can vary. We will do our best to contact you as soon as possible after receipt of your complaint.

## THE MASSACHUSETTS ANTIDISCRIMINATION LAW

The fair housing requirements in Massachusetts General Law Chapter 151B, also known as the Antidiscrimination Law, prohibit discrimination against people who receive federal, state, or local public assistance (for example, Social Security Income or SNAP benefits) and housing subsidies (for example, Section 8 vouchers or RAFT). It is illegal under the Antidiscrimination Law for housing providers to discriminate against someone because they participate in public assistance and housing subsidies programs, or because of the requirements of those programs.

### *What is a housing provider?*

A housing provider is any person or company involved in making housing available for rent, including landlords, real estate agents or brokers, and property management companies.



### ***What are examples of federal, state, or local housing subsidies?***

Housing subsidies help low-income tenants by paying some or all of their rent. There are several types of housing subsidy programs in Massachusetts. The three largest programs are the federally-funded **Section 8 Housing Choice Voucher Program**, the state-funded **Massachusetts Rental Voucher Program**, and the state-funded **Alternative Housing Voucher Program**, which helps people with disabilities under the age of 60 who are eligible to live in state-funded public housing for the elderly or disabled.

Temporary or emergency rental assistance programs are also housing subsidies that help individuals and families at risk of losing their housing or in need of financial help to secure new housing by aiding with costs like rent arrears, moving expenses, and security deposits. There are several types of temporary or emergency rental assistance programs in Massachusetts, such as the state-run **HomeBASE** and **Residential Assistance for Families in Transition (“RAFT”)** programs, and local programs like the City of Boston’s Rental Relief Fund. These programs are covered under the Antidiscrimination Law.

## **PREVENTING DISCRIMINATION IN THE RENTAL PROCESS**

### ***Can a housing provider refuse to rent to housing subsidy recipients?***

No. A housing provider cannot discriminate against people because they receive housing subsidies, including people who have any federal or state rental voucher or who receive temporary or emergency rental assistance. This means that when people who receive housing subsidies are seeking housing, landlords, property managers, and real estate agents or brokers cannot:

- Refuse to rent them housing;
- Refuse to negotiate with them for housing;
- Cease communication or “ghost” in an effort to disengage or avoid renting to them;
- Refuse to comply with the housing subsidy’s program requirements by, for example, refusing to complete necessary paperwork, use their standard written lease agreement forms, adhere to required leasing procedures, or permit housing standards inspections required by the program;
- Tell a person who receives public rental assistance that housing is not available for rent in order to avoid renting a property to them;
- Use qualification criteria or procedures that would exclude those receiving housing subsidies by, for example, requiring applicants to provide evidence of employment-based income, or using background screening services that utilize algorithmic methods that unfairly disadvantage or “screen-out” housing subsidy recipients.

### ***Is a landlord responsible for legal violations committed by their rental agent?***

Yes. If a landlord’s rental agent discriminates against any potential tenants, both the agent and the landlord will be liable for the violation, regardless of whether the landlord knew about it.



## **PREVENTING DISCRIMINATION BY COMPLYING WITH HOUSING SUBSIDY PROGRAM REQUIREMENTS**

Housing subsidy programs have standard rental application, tenancy approval, and leasing requirements. Generally, housing providers must follow such requirements. This may mean that, to comply with a housing subsidy program's rental application and leasing requirements, a housing provider may have to change its usual application and leasing procedures.

### ***Can a housing provider require housing subsidy recipients to get pre-approval from a housing subsidy administrator before considering a rental application?***

No. Housing providers may not require "pre-approval" of the rent for an apartment or other tenancy terms. As indicated above, subsidy programs have standard requirements that must be followed to process applications and approve rents – and housing providers are generally required to follow that process. A housing provider that refuses to accept or process an application without "pre-approval" from a subsidy administrator is violating the law.

### ***Can a housing provider move on to another rental applicant during the time a housing subsidy administrator is going through its process for approving an apartment?***

No. Housing providers may not discriminate against applicants because of the requirements of a housing subsidy program. This means that housing providers must generally hold an apartment while a housing subsidy administrator completes application and leasing process requirements. This process may take more time than a housing provider's regular application and leasing process. A housing provider who skips to another applicant while a subsidy provider is actively working through its required approval process violates the law.

### ***Can a landlord decide not to rent a unit to a voucher holder because repairs identified in a housing inspection are too costly?***

No. Housing subsidy administrators will not approve a lease for a rental unit that does not pass a housing quality inspection unless the owner makes the required repairs. Housing providers cannot refuse to make these repairs due to the costs involved, and cannot refuse to continue with a voucher holder's application for that reason. Also, the housing quality standards required by the housing subsidy programs generally match the standards required in the Massachusetts State Sanitary Code which applies to all apartments in Massachusetts.

## **PREVENTING DISCRIMINATION IN RENTAL CONDITIONS AND TERMS**

### ***Are there limits on what housing providers can say or state in their advertisements?***

Yes. Housing providers cannot make statements or place advertisements that discriminate based on receipt of housing subsidies. This means that they cannot place advertisements that suggest a preference, for example, for tenants without housing vouchers or other public rental assistance. The following are examples of discriminatory language in advertisements for housing:

- Proof of employment income required;
- Not Section 8 certified;
- Must have minimum annual income of \$65k;
- Good credit, references, employment and income history needed; or
- Must have strong credit and verifiable employment to be considered.



The way housing is advertised may also violate the law. For example, housing providers cannot use online marketing tools to target their advertisements only to groups with specific characteristics, while excluding people with different characteristics that the law protects. Additionally, a housing provider cannot place an advertisement for housing that says people with vouchers or who receive public rental assistance cannot apply or otherwise discourages them from applying.

### ***Can a housing provider require proof of employment income from a voucher holder as part of the application process?***

No. Housing providers are not allowed to require an applicant for an apartment to have a particular type of income, such as income from a job. This is because some recipients of public assistance, such as those with Social Security Disability Income (SSDI) benefits, may not be employed, but may still be qualified to rent the apartment.

Additionally, housing providers cannot impose minimum income or rent-to-income ratio requirements that have the purpose or effect of excluding or unfairly disadvantaging housing subsidy or public assistance recipients. Housing providers who choose to use minimum income requirements must count assistance payments as income. Similarly, housing providers who choose to use rent-to-income ratio requirements may not require subsidized applicants to demonstrate the ability to pay more than their share of the rent; the amount of any subsidy payment must be subtracted from the total rent before the rent-to-income ratio for an applicant is calculated.

Further, housing providers may not set income requirement at specific levels in order to disqualify housing subsidy or public assistance recipients. Most housing subsidy and public assistance programs have maximum income eligibility requirements. A housing provider may violate the law by, for example, implementing a minimum income requirement above the income limit for a subsidy program in order to avoid renting to subsidized applicants.

### ***What limits are there on the types of fees housing providers may collect from housing subsidy recipients?***

A housing provider may never charge an application fee or require a deposit to hold, reserve, or take an apartment off-market. Housing providers may require tenants to pay only the following costs to move into an apartment: first and last month's rent, a security deposit, and the exact cost of changing the rental unit's locks and keys (if applicable). These requirements apply to all applicants and tenants.

Housing providers should be aware that there are additional legal restrictions on the fees they may collect from housing subsidy recipients. For example, a housing provider may not collect a "rent deposit" from a subsidy recipient that exceeds the tenant's share of the rent (i.e. the total monthly rent minus the amount of any subsidy payment). For example, if the rent for an apartment is \$2,500 per month, but a Section 8 voucher holder is responsible for only \$250 of that amount, the rent deposit charged to the voucher holder cannot exceed \$250. For this reason, a housing provider generally may not collect a rent deposit from a housing subsidy recipient until the subsidy provider determines the tenant's share of the rent for the apartment during the tenancy approval process. Importantly, because the amount of the subsidy a person receives may change over time, a housing provider may not collect an "estimated" deposit from a voucher holder based upon the tenant's share of the rent for a prior apartment.

