



# KNOW YOUR RIGHTS

**SOURCE OF INCOME DISCRIMINATION  
FREQUENTLY ASKED QUESTIONS**





## Introduction

Massachusetts residents who rely on public assistance, including rental assistance programs, often face unique challenges in securing housing, which is a key pathway to economic security. Because we recognize the importance of access to housing, we have prepared this guide to help educate residents and landlords on their rights and obligations in this area.

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](#).
- MAIL** Send a completed Civil Rights Complaint form to the Civil Rights Division at One Ashburton Place, 18th Floor, Boston, MA 02108.
- EMAIL** Email a completed Complaint form to the Civil Rights Division at [civilrights@mass.gov](mailto:civilrights@mass.gov).
- PHONE** Call (617) 963-2917

Because the Civil Rights Division receives many complaints, 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. If you already have filed a complaint with the Civil Rights Division and wish to inquire about the status, you should contact us at that same number.

## What are rental assistance vouchers?

Rental assistance vouchers help low-income tenants by paying some or all of their rent. Rental assistance vouchers are sometimes called “mobile” vouchers because the tenant can use them at most apartments. There are several types of rental assistance vouchers 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. There are also several emergency rental assistance programs in Massachusetts that provide short-term financial assistance to homeless families or families at risk of homelessness.

## 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.

## Can a housing provider treat voucher holders differently from other tenants?

No. A housing provider cannot treat people differently simply because they receive public assistance, including people who have any federal or state rental voucher. This means that landlords, property managers, and real estate agents or brokers cannot:

- Refuse to rent housing to a voucher holder;
- Refuse to negotiate for housing with a voucher holder;
- Set different terms, conditions or privileges of rental for a voucher holder;
- Refuse to comply with a requirement of the rental assistance program by, for example, refusing to provide the necessary paperwork or by insisting on a cash payment.
- Tell a voucher holder that housing is not available for rent in order to avoid renting a property to them;
- Place an advertisement for housing that says people with vouchers cannot apply or otherwise discourages them from applying; or
- Use qualification criteria or procedures that would exclude voucher holders, for example, by requiring evidence of employment-based income or requiring voucher holders to pass different credit or background checks than other renters.

## **Can a landlord discourage families with children from applying for an apartment?**

No. Housing providers cannot discriminate based on family status, which includes treating potential tenants who have children worse or differently than potential tenants without children. There are many ways that landlords may engage in illegal discrimination against families. For example, it is illegal for a landlord or their agent to do any of the following because a potential tenant has children:

- Discourage potential tenants from looking for housing in particular buildings or neighborhoods, not show or inform them about available rental units in specific buildings or neighborhoods, or encourage them to look for housing in specific buildings or neighborhoods;
- Make comments suggesting that a rental unit is not child-appropriate (e.g. telling the rental applicant that the unit is not child-appropriate because it may contain lead or is located on a busy road);
- Stop communicating with any applicants who tell the landlord that they have children; or
- Reject a qualified applicant because other tenants in the building want “quiet” neighbors.

## **Can a housing provider rent an apartment with lead paint to a participant in a rental assistance program?**

A housing provider may rent an apartment with lead paint to a voucher holder, unless a child under the age of 6 is going to live in the apartment. If a child under the age of 6 is going to live in an apartment that has lead paint, the housing provider is required to de-lead the apartment before the family can move in. If a voucher holder’s family includes a child under the age of 6, the housing provider will also have to certify to the local housing authority that the apartment is in compliance with lead paint laws before the family can move in.

## **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 SSDI benefits, may not be employed, but may still be qualified to rent the apartment.

### **Can a housing provider rely solely on a local housing authority's payment standard to determine whether a voucher holder will be able to afford a rental unit?**

No. Before determining that a voucher holder cannot afford an apartment because of a payment standard, housing providers must consider the voucher holder's specific circumstances, including the specific amount of their voucher and the availability of other forms of financial assistance. Local housing authorities calculate the maximum amount that they will pay toward rent each month using their payment standard. A payment standard is the cost of rent and utilities for an apartment by bedroom size and geographic location. Local housing authorities may use different payment standards, and some local housing authorities may pay more toward rent than others. Some local housing authorities will also provide additional assistance to help with utilities or other move-in costs.

### **Can a housing provider require a voucher holder to get pre-approval from a housing authority before considering a rental application?**

No. According to rental assistance laws, a local housing authority can only approve an apartment after the landlord accepts an application. It is not possible under the regulations to get pre-approval. Housing providers will violate Massachusetts law if they require a voucher holder to be "pre-approved" to apply for an apartment.

### **Can a housing provider treat someone differently because they rely on temporary or emergency rental assistance?**

No. It is illegal to discriminate against tenants or prospective tenants who receive or apply for temporary and/or emergency rental assistance, including rental assistance provided through the Massachusetts HomeBASE or Residential Assistance for Families in Transition ("RAFT") programs, because those programs are "public assistance" programs that are protected under Massachusetts law.

In addition, towns and cities across Massachusetts have also created local emergency rental assistance programs to lessen the financial impact of COVID-19 on their residents. These programs, like RAFT, are protected under Massachusetts law and a housing provider's refusal to accept rental assistance from these programs or otherwise adhere to the program requirements for such programs may similarly violate Massachusetts law.

## **Can a housing provider refuse to participate in a tenant's application for temporary or emergency rental assistance because of the rental assistance program's requirements?**

RAFT, HomeBASE and local emergency rental assistance programs may require a landlord's participation in the application or approval process. For example, RAFT requires that a housing provider complete a portion of the tenant's application and provide certain information to the RAFT program. A housing provider who refuses to accept RAFT or who refuses to provide the necessary information to the RAFT program and complete their portion of the application may violate Massachusetts law.

## **What types of fees can tenants be required to pay as part of the application and rental process?**

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 cost of changing the rental unit's locks and keys. The last month's rent charged to a tenant cannot be more than the amount charged for the first month's rent. Also, the security deposit cannot be more than the amount charged for the first month's rent. It is unlawful for housing providers to require other payments at the start of a rental. Housing providers that charge fees for processing applications, conducting background or credit checks, or other application fees to voucher holders may violate Massachusetts law because voucher holders may not be able to afford those additional fees or may be discouraged from applying even though they are otherwise qualified to rent the unit.

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

No. The housing quality standards required by the rental assistance voucher programs generally match the standards required in the Massachusetts State Sanitary Code which applies to all apartments in Massachusetts. This means that when a housing quality inspection identifies conditions in need of repair, those conditions may also be sanitary code violations that would need be repaired to rent the apartment to any person, no matter their source of income.

Local housing authorities will not approve a rental unit that does not pass a housing quality inspection unless the owner makes the required repairs. Housing providers that refuse to make these repairs due to cost and refuse to continue with a voucher holder's application for that reason entirely may be in violation of Massachusetts law.

## **What are some common examples of discriminatory advertisements that are illegal?**

Housing providers cannot make statements or place advertisements that discriminate based on race, color, national origin, religion, sexual orientation, gender identity, familial status, disability, source of income, and certain other characteristics. This means that they cannot place advertisements that suggest a preference, for example, for tenants without housing vouchers, without children, or without disabilities. The following are examples of discriminatory language in advertisements for housing:

- Perfect for young professionals;
- Single occupants only;
- Ideal for single person or college student;
- Proof of employment income required;
- Not Section 8 certified;
- Must have minimum annual income of \$65k;
- Good credit, references, employment and income history needed;
- Must have strong credit and verifiable employment to be considered;
- No pets, no exceptions; or
- English speakers only.

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. For example, a housing provider who displays its advertisements only to single, young professionals may be illegally discriminating against people who are older or people with families.

## **Can a housing provider move on to another rental applicant if a local housing authority's process for approving an apartment is moving too slowly?**

It depends. There are no deadlines for the completion of a voucher program's approval processes. Sometimes the approval process will move quickly; other times the approval process may take several weeks or even a month or more. A housing provider who skips to another applicant before the local housing authority completes the approval process risks violating Massachusetts law, particularly when the local housing authority is actively working through the approval process. But, if the approval process goes on for weeks without the local housing authority trying to schedule an inspection or without any other communication from the local housing authority, a housing provider may face less risk in moving on to a different rental applicant.

### **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 or not the landlord knew about it.

### **Will the requirements described above continue after the COVID-19 emergency is over?**

Yes. The rights and obligations described above are based on the law in Massachusetts and will continue to be in effect during and after the COVID-19 emergency. These requirements are not based on any temporary laws that have been passed during the COVID-19 emergency. Therefore, landlords must continue to follow these requirements.

Landlords must also follow all temporary laws that have been passed during the COVID-19 emergency. For more information about those temporary laws, please read the Attorney General's advisory on residential evictions during the pandemic. [The advisory is available here.](#)



## Other Resources

### **Massachusetts Commission Against Discrimination (MCAD)**

[Overview of Housing Discrimination in Massachusetts](#)

[File a Complaint Online](#)

### **U.S. Department of Housing & Urban Development (HUD)**

[Tenant Rights, Laws, and Protections: Massachusetts](#)

[File a Complaint Online](#)

### **Boston Fair Housing Commission**

[Boston Fair Housing Regulations](#)

[File a Complaint Online](#)

### **Cambridge Human Rights Commission**

[General Information about Housing Discrimination](#)

[File a Complaint Online](#)

### **Other Resources**

[Fair Housing Center of Greater Boston](#)

[Greater Boston Legal Services Housing Unit](#)

[Massachusetts Fair Housing Center](#)

[Suffolk University Law School, Housing Discrimination Testing Program](#)