

# SEXUAL HARASSMENT AND HOUSING

# DFEH



## FACT SHEET

### WHAT IS SEXUAL HARASSMENT?

California law prohibits harassment because of membership in a protected class as a discriminatory housing practice. The prohibition on harassment extends to conduct that is based on an individual's membership in a protected class, being perceived as a member of a protected class, or on account of having aided or encouraged any person in the exercise of the rights protected under California Law.

THERE ARE TWO MAIN TYPES OF SEXUAL HARASSMENT:

1. Quid Pro Quo sexual harassment; and
2. Hostile Environment sexual harassment.

### ARE THERE PROTECTIONS FOR ME IF I AM BEING SEXUALLY HARASSED AT MY HOME?

Yes. Sexual harassment in housing is a form of sex discrimination prohibited by the Fair Housing Act. The Act provides protections to safeguard the home as a place of privacy, security and refuge.

### QUID PRO QUO

Quid pro quo harassment occurs when a housing provider requires a person to submit to an unwelcome request to engage in sexual conduct as a condition of obtaining or maintaining housing or housing-related services. A mutually beneficial and agreed upon transaction is not unwelcome and would not constitute quid pro quo harassment under the Act, however if an individual acquiesces to an unwelcome demand, unlawful quid pro quo harassment may have occurred. For example:

- A landlord tells an applicant he won't rent her an apartment unless she has sex with him.
- A property manager evicts a tenant after she refuses to perform sexual acts.
- A maintenance man refuses to make repairs unless a tenant gives him nude photos of herself.

### HOSTILE ENVIRONMENT

Hostile environment harassment occurs when a housing provider subjects a person to severe or pervasive unwelcome sexual conduct that interferes with the sale, rental, availability, or terms, conditions, or privileges of housing or housing-related services, including financing. For example:

- A landlord subjects a tenant to severe or pervasive unwelcome touching, kissing, or groping.
- A property manager makes severe or pervasive unwelcome, lewd comments about a tenant's body.
- A maintenance man sends a tenant severe or pervasive unwelcome, sexually suggestive texts and enters her apartment without invitation or permission.

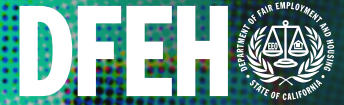
### CAN A SINGLE INCIDENT OF HARASSMENT CONSTITUTE A HOSTILE ENVIRONMENT?

Yes, if it is because of a protected characteristic and is sufficiently severe. Whether a claim of hostile environment harassment is based on a single incident or repeated incidents of unwelcome conduct, an assessment of the totality of the circumstances is still required.

For example, the nature of the unwelcome conduct (e.g., whether it was spoken, written and/or physical) and the location of the conduct (e.g., whether it occurred inside the victim's apartment or in a common space), among other potential considerations, would factor into an assessment of whether a single incident of harassment was sufficiently severe to interfere with or deprive the victim of his or her right to use and enjoy the housing or to exercise other rights protected by the Act.

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### DOES A HARASSMENT COMPLAINT REQUIRE PROOF PSYCHOLOGICAL OR PHYSICAL HARM?

No. Neither psychological nor physical harm must be demonstrated to prove that a hostile environment exists. Evidence of psychological or physical harm may, however, be relevant in determining whether a hostile environment was created and, if so, the amount of damages to which an aggrieved person may be entitled.

### WHAT IF ANOTHER TENANT IS HARASSING ME?

You may report it to your landlord, and they should give it top priority and determine whether the report involves discriminatory harassment.

HUD encourages housing providers to create safe, welcoming, and responsive housing environments by regularly training staff, developing and publicizing anti-discrimination policies, and acting quickly to resolve complaints once sufficient information exists that would lead a reasonable person to conclude that harassment was occurring.

California fair housing laws require that housing providers “take prompt action to correct and end a discriminatory housing practice by a third-party, where the housing provider knew or should have known of the discriminatory conduct and had the power to correct it. If there are allegations of conduct that, if true, would constitute discriminatory harassment, the landlord will need to investigate the matter to make a factual determination about what happened. Once the investigation is complete, they should act based on factual findings, including using the unlawful detainer (eviction) process against the alleged harasser.

### WHAT DO I DO IF I BELIEVE I'M A VICTIM OF SEXUAL HARASSMENT IN MY HOUSING ENVIRONMENT?

1. File a complaint with Department of Fair Employment and Housing.
2. If you would be safe doing so, tell the harasser to stop.
3. You can also make a complaint to your housing provider, if different from the harasser.
4. Sexual harassment may also constitute a crime you can report to local law enforcement.

#### **If you think you have been a victim of sexual harassment, please contact DFEH.**

If you have a disability that requires a reasonable accommodation, the DFEH can assist you by scribing your intake by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or you can contact us below.

#### **TO FILE A COMPLAINT**

##### **Department of Fair Employment and Housing**

[dfeh.ca.gov](http://dfeh.ca.gov)

Toll Free: 800.884.1684

TTY: 800.700.2320