

## **Preface, 2025-2026 Edition**

Another year passes without relief from the housing crisis that besets California. For practitioners on both sides of the aisle struggling to make housing available and accessible, we offer this book as a comprehensive resource on the law of discrimination in housing and places of public accommodation, particularly as it is practiced within this State. No other practice guide compares with our scope and emphasis on California law. May it serve you well.



## Preface, 2025 Edition

In 2025, the election of President Donald Trump has introduced many changes to public life. Under the Trump administration, the Department of Housing and Urban Development (HUD) has pursued what many in the civil rights community view as a significant rollback of fair housing policies and enforcement. A primary focus of these changes was the weakening of the “Affirmatively Furthering Fair Housing” (AFFH) rule, which was eventually terminated and replaced. Key policy changes include:

### Reduction of Affirmatively Furthering Fair Housing (AFFH)

- **Repealed Obama-era rule:** In 2020, the first Trump administration terminated the 2015 AFFH rule, which had required cities and states receiving federal housing funds to analyze and address patterns of housing segregation. During his 2020 campaign, Trump claimed the rule would “destroy the suburbs” by forcing the construction of low-income housing.
- **Replaced with weaker standard:** The Obama-era rule was replaced with a new rule, “Preserving Community and Housing Choice,” that fair housing advocates criticized as making the AFFH mandate a meaningless “check-the-box” exercise with no real accountability.
- **Terminated again in 2025:** The Biden administration had previously proposed a new AFFH rule. In February 2025, the incoming Trump administration scrapped the Biden-era rule and released a narrower version, stating it would restore trust in local communities and protect “neighborhood integrity”.

### Altering the Disparate Impact Rule

- **Proposed changes:** In 2019, HUD issued a proposed rule that would have substantially weakened the legal standard for proving “disparate impact” claims. The disparate impact standard, affirmed by the Supreme Court in 2015, holds that a policy can be discriminatory if it has a disproportionate effect on a protected class, regardless of intent.
- **Increased burden of proof:** The proposed rule would have made it significantly more difficult for victims of discrimination to win disparate impact cases. Critics argued the rule was an attempt to allow for covert, algorithmic discrimination in housing.

### Fair Housing Enforcement and Funding Cuts:

- **Ended grants for non-profits:** In 2025, the Trump administration began terminating federal grants for

non-profit organizations that investigate and litigate housing discrimination complaints. In 2023, these organizations processed 75% of all housing discrimination complaints in the U.S.

- Proposed budget cuts: The FY26 budget request proposes drastically cutting funding for HUD’s fair housing programs, including eliminating the Fair Housing Initiatives Program (FHIP) and the Fair Housing Assistance Program (FHAP).

#### Staff Reductions and Administrative Actions:

- Personnel cuts: The Trump administration is reportedly aiming to cut most of the fair housing staff in HUD’s Office of Fair Housing and Equal Opportunity (FHEO).
- DOGE interference: In 2025, a newly formed “Department of Government Efficiency” (DOGE) directed HUD to cancel grants for fair housing non-profits. These actions were later challenged in court.
- Withdrawal of guidance: An October 2019 Executive Order instructed federal agencies to rescind “guidance documents” that regulated the public without following rulemaking procedures. This put numerous HUD guidance documents on fair housing at risk, including those on reasonable accommodations for people with disabilities and protections against discrimination for
- LGBTQ+ individuals.

#### Impact and Analysis:

- The Trump administration’s fair housing policies and actions have been criticized by civil rights advocates and housing organizations.
- Impact on housing integration: Rollbacks of the AFFH rule have been interpreted as making it harder to build affordable housing and reverse decades of housing segregation.
- Reduction on enforcement: Cutting funding to non-profits and HUD’s fair housing office has been seen as curtailing the enforcement mechanisms for anti-discrimination laws.
- Impact on discrimination: Critics have warned that the rollbacks would make it easier for discrimination to occur, especially against people with disabilities, people of color, and those with protected characteristics.
- Politicized issue: The fair housing regulations became a partisan issue, with critics alleging that “racial rhetoric” has been used to justify the policy changes.

As these national developments are still in flux, this edition places greater emphasis on California law, which has not changed significantly.

In addition, we are pleased to introduce Shawn McMillan as a new editor to this edition. The principal trial attorney of Law Offices of Shawn A McMillan, he focuses his practice on prosecuting the civil rights and civil liberties of plaintiffs under 42 U.S.C. § 1983. Mr. McMillan has written a new chapter on 42 U.S.C. § 1983 actions, which provides an individual the right to sue state government employees and others acting “under color of state law” for civil rights violations. Brought in conjunction with other constitutional provisions (i.e., the First and Fourteenth Amendments) and statutes (i.e., Fair Employment and Housing Act, Unruh Civil Rights Act, Disabled Persons Act), section 1983 is a powerful means to enforce civil rights that already exist.

We thank Susan Saylor, former managing editor, for her dedication to this publication and for her service as managing editor in the last decade.

Editor-in-Chief