

REASONABLE ACCOMMODATION POLICY

Sample Guide for Housing Providers and Residents

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Introduction

This sample policy was adapted from the guide: *Sample Policy: Reasonable Accommodations for People with Disabilities* published by the Fair Housing Agencies of Washington State.

This sample policy is provided to help housing providers better understand fair housing requirements for persons with disabilities and to provide fair and consistent practices when processing requests for reasonable accommodations from applicants and tenants. You may use or adapt this policy to establish your own reasonable accommodation practices and procedures.

You are encouraged to visit the website of the Fair Housing Hotline Project to learn more about the services of the project and to review and download much more information about fair housing.

BACKGROUND

WHAT DO FAIR HOUSING LAWS REQUIRE?

Fair Housing Act: The federal Fair Housing Act prohibits housing providers from discriminating against persons because of their disability or the disability of anyone associated with them, and from treating disabled people less favorably than others because of their disabilities. This law also requires housing providers "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person(s) equal opportunity to use and enjoy a dwelling." In addition, these laws require that housing providers allow tenants to make reasonable modifications to units and common spaces in a dwelling.

Section 504 of the Rehabilitation Act of 1973: Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance. Publically subsidized rental projects are subject to this law and usually have enhanced obligations to provide accessible housing and accommodations to persons with disabilities.

Americans with Disabilities Act: In most cases, the ADA does not apply to residential housing. Title III of the ADA covers public and common use areas at housing developments when these areas are open to the general public (such as a rental office) or when they are available for use by the general public (such as a community room that you rent to non-tenants). Title II of the ADA prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities.

California Fair Employment and Housing Act: This California fair housing law has essentially the same protections for persons with disabilities as the federal Fair Housing Act.

WHO IS DISABLED?

Under federal fair housing laws, a person is considered "disabled" if he has a physical or mental impairment that substantially limits a major life activity (e.g., walking, breathing, seeing, eating, sleeping, thinking, learning, communicating, taking care of oneself, etc.) It also includes persons who are regarded as disabled, have a history of a disability, and recovering drug addicts and alcoholics (but not current users). California law has a broader definition of "disability" because it only requires that the impairment "limit" not "substantially limit" a major life activity.

WHAT IS A REASONABLE ACCOMMODATION?

People with disabilities may have special needs. In some cases, simply treating them the same as others may not ensure that they have an equal opportunity to use and enjoy a dwelling. A "reasonable accommodation" is a change, exception, adaptation or

modification to a policy, program or service, which will allow a person with a disability to use and enjoy a dwelling, including public and common use spaces. Examples of reasonable accommodations include providing rental materials in alternate formats such as large print, providing a reserved accessible parking space near a tenant's apartment, or allowing a tenant to have a service animal in a "no pets" building.

Fair housing laws require that a housing provider bear costs of providing an accommodation that do not amount to an undue financial and/or administrative burden.

WHAT IS A REASONABLE MODIFICATION?

A "reasonable modification" is a physical change made to a tenant's living space which is necessary to afford the disabled tenant full enjoyment of his dwelling. Modifications are usually made at the tenant's expense, except in the case of federally funded housing.

- Quality of work: A housing provider may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a professional manner and that any required building permits will be obtained.
- Restoration: Where it is reasonable to do so, a rental housing provider may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. When the tenant moves out, the housing provider should not require restoration of the interior to its previous condition when the modifications that were made would not interfere with the next tenant's use and enjoyment of the premises. The housing provider may not require an increased security deposit. However, the provider may negotiate an agreement that the tenant pay into an interest-bearing escrow account, over a reasonable period, an amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.
- Reasonable modification examples: Allowing a wheelchair-using tenant to widen an interior doorway (no need to make doorway narrow again at move-out time) or to install bathroom grab bars with proper wall reinforcement (bars can be removed at move-out, but the hidden wall reinforcement must remain).

WHEN IS AN ACCOMMODATION OR MODIFICATION REASONABLE?

Whether or not a requested accommodation/modification is "reasonable" depends on several factors and must be decided on a case-by-case basis.

Only a household member with a disability is entitled to an accommodation. Housing providers are not entitled to specific information about the disability, but they may request a letter or other objective evidence confirming that the tenant actually has a disability and that he or she needs the accommodation.

The requested accommodation or modification must be necessary. There must be an

identifiable relationship between the individual's disability and the requested accommodation or modification.

The request should not impose an undue financial and administrative burden on the housing provider. Note that “undue burden” usually takes into consideration the housing provider’s entire resources.

The requested accommodation or modification should not require the housing provider to make a fundamental alteration in the nature of the provider's operations.

Note that where a particular requested accommodation or modification is not reasonable, the housing provider is still obligated to offer other alternative accommodations that are reasonable, if there are any.

WHEN SHOULD ACCOMMODATION/MODIFICATION REQUESTS BE MADE?

An individual with a disability may request an accommodation or modification whenever they are needed. For example, requests may be made when an individual is applying for housing, entering into a rental agreement, while occupying housing, and even during an eviction process. A tenant with a disability who does not request an accommodation when she moves into a unit, may later request an accommodation at any time during her tenancy. There is no deadline to request an accommodation.

HOW SHOULD REQUESTS FOR ACCOMMODATIONS/MODIFICATIONS BE MADE?

There is no specific way to make a request for a reasonable accommodation or modification. A tenant does not even need to use the words “reasonable accommodation” or say that they are “disabled.” In general, a tenant or applicant should make clear to the housing provider that he is requesting that an exception, change, adjustment, or modification be made to a rule, policy, practice, service, building or dwelling unit because he has some kind of medical condition or physical or mental impairment. The tenant’s request should describe what type of accommodation is needed and explain the relationship between the requested accommodation and the disability. Although not legally required, it is helpful if these requests are made in writing, so there will be documentation of the request.

Housing providers should have a formal reasonable accommodation process to assist employees with reviewing these requests and to assist tenants to make such requests.

MUST AN ACCOMMODATION BE PROVIDED IF THERE’S BEEN NO REQUEST?

No. A housing provider is only obligated to provide an accommodation if a tenant has made a request. However, housing providers can advise all applicants and tenants of their willingness to provide accommodations by noting on application forms, rental

agreements, and rules or regulations that “reasonable accommodations will be provided upon request.”

MUST EVERY RULE AND PROCEDURE BE CHANGED AT A DISABLED TENANT’S REQUEST?

No. Although housing providers are expected to accommodate "reasonable" requests, they do not need to make changes that would substantially impair their ability to run their business. For example, if a tenant with a disability cannot do his own housekeeping and the housing provider does not supply housekeeping for tenants, a request for such services would not be reasonable. If an applicant who uses crutches prefers a third-story apartment to a ground floor unit in an older apartment building, the housing provider does not have to install an elevator because such a modification may be unreasonable or cost prohibitive.

MAY A HOUSING PROVIDER INSIST ON AN ALTERNATIVE TO A REQUESTED ACCOMMODATION?

The housing provider must grant the specific accommodation requested, if reasonable, because the individual with a disability is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective. If the housing provider believes the requested accommodation is unreasonable, she or he should propose a substitute acceptable alternative, if possible. If the housing provider suggests an alternative accommodation, the tenant may reject it if it does not meet his or her needs.

WHAT HAPPENS IF A HOUSING PROVIDER FAILS TO ACT ON A REQUEST FOR AN ACCOMMODATION?

If a housing provider fails to respond to a request for an accommodation or unreasonably delays in responding, a tenant or applicant may then choose to seek legal assistance or to file a complaint with a fair housing agency.

A SPECIAL NOTE ABOUT ACCESSIBLE PARKING

If you provide parking for tenants, it is a reasonable accommodation to provide a reserved accessible parking space when a disabled tenant requests it. Here are basic guidelines:

- Many tenants who need an accessible parking space do not need an extra-wide space with an access aisle – they may only need a regular-size parking space nearest to their front door (or on the most accessible route to the front door). Discuss with the tenant his/her needs for parking.
- Even if you don’t usually assign particular parking spaces to specific tenants or

units, provide the disabled tenant with a reserved parking space. Be sure to post signs saying the spot is reserved and enforced. Provide the reserved space in addition to any other general accessible parking you may provide for guests.

- If you have parking for guests, the guest parking is likely subject to ADA Title III rules, which require at least 2% of all guest spaces in any lot meet access requirements and be designated with appropriate signage. These spaces must be at least 96" wide and must have an adjacent access aisle at least 60" wide, which allows room for a wheelchair, electric scooter, or other mobility device. An access aisle can be shared between two accessible parking spaces. At least one of the guest spaces must be van accessible; van parking spaces need a 96" access aisle.
- If the rental office is on-site, be sure to locate at least one accessible guest parking space next to the office.
- Your standard accommodations policy can be used for accessible parking requests. If a tenant has a state disabled parking permit, this is generally sufficient proof of need for a reserved accessible parking space.

A SPECIAL NOTE ABOUT SERVICE OR COMPANION ANIMALS

It is a reasonable accommodation for housing providers to waive pet restrictions for tenants with disabilities who need a service or companion animal in order to meet their disability-related needs. A service or companion animal is either a trained and licensed animal that provides assistive services to a person with a disability or simply an animal that has been verified to provide necessary emotional or other support for a person with a disability.

- Dogs are the most common service animals, but any animal may be a service or companion animal (for example, cats or birds). Service animals may be any breed, size or weight.
- There is no legal requirement for service animals to be visibly identified (no special collar or harness needed) or to have documentation (no license, certification or identification papers needed).
- Service animals are not considered to be pets. A person with a disability uses a service animal as an auxiliary aid -- similar to the use of a cane, crutches or wheelchair. For this reason, fair housing laws require that housing providers permit the use of a service animal by an individual with a disability despite "no pet" rules. Pet deposits or fees cannot be charged for service animals. But tenants may be held liable for damages caused by their service or companion animals.

**SAMPLE REASONABLE ACCOMMODATION AND REASONABLE
MODIFICATION POLICY
GUIDELINES FOR STAFF**

Policy

It is the policy of [*insert name of company here*] to provide reasonable accommodations and to permit tenants with disabilities to have reasonable accommodations/modifications upon request, with provision of appropriate documentation of the need for the accommodation or modification when necessary.

Procedure

A tenant with a disability must first make a request for an accommodation or modification.

Fair housing laws require that the housing provider and the tenant enter into a dialogue about the tenant's needs to reach a mutually acceptable reasonable accommodation.

Property management must review all requests for reasonable accommodations or modifications. In some cases, the need for an accommodation will be obvious, so no documentation may be needed (e.g., a low vision tenant asks for the tenancy rules in large print). When the need is not obvious or where the accommodation entails more than minimal cost or staff time, staff may request that the tenant to provide written verification from the tenant's healthcare or mental health provider that the tenant has a disability and needs the accommodation or modification (the provider need not be a medical doctor, but any professional qualified to verify the disability and need for the accommodation, such as, a nurse, physical therapist, social worker, or counselor). Staff may require proof that the tenant is disabled, but cannot require the tenant to provide specific information or records about the disability.

If you are unsure how to provide a requested accommodation, the tenant may be aware of resources with which you are unfamiliar (for example, where to get written material put into Braille, sources for access signs, etc.).

If you attempt to honor the request and find that it is very difficult, time-consuming or expensive, let the tenant know and suggest any easier, quicker or less expensive alternative accommodations that you think may work. Offer the tenant an opportunity to make a modified request. If you and the tenant disagree about whether the request is reasonable, always contact upper management before denying the request.

If you determine that you cannot fulfill the request because it poses an undue financial or administrative burden or because it would cause a fundamental alteration in the housing program, discuss this issue with upper management before denying the

request. You may contact a fair housing agency in your area for technical assistance.

Reasonable Accommodations

Promptly review all requests a disabled tenant makes for reasonable accommodations. Provide accommodations immediately or within a reasonable time. The property manager will provide a written response notifying the tenant of whether the requested accommodation will be provided and how (see sample letter).

Reasonable Modifications

Tenants will be permitted to make physical modifications to their units if they comply with the following:

- Fully describe the requested modifications.
- Obtain all necessary and appropriate permits.
- Use an appropriate licensed contractor.
- Agree to restore the unit to its original state, unless the modification will not interfere with the next tenant's use and enjoyment of the premises.
- Pay for all the costs of the modifications and (optional) agree to pay into an interest-bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations.

Provide permission to perform modifications as soon as practicable. The property manager will provide a written response notifying the tenant whether you will allow the requested modification (see sample letter).

Note that if your housing is federally funded, you are likely responsible for the costs of reasonable modifications. Make appropriate changes to these staff guidelines to reflect that responsibility.

Verification

If the housing provider supplies his/her own verification form, you may add the following:

If the tenant's disability or need for the requested accommodation is not obvious, it may need to be verified by an appropriate service provider (e.g., doctor, nurse, therapist, counselor, social worker etc.). You may use the approved verification form. Ask the tenant for the name and address of the service provider that he/she wants to verify the disability and need for the accommodation.

Complete the **first page** of the verification form and have the tenant sign the release on

the **last page** of the form.

Next, you may either (1) Mail the form directly to the service provider with a request that he/she complete the form, sign it, and fax or mail it back directly to you; or (2) Have the tenant bring the form directly to the service provider and have him/her return the completed and signed form to you. If you have any concerns about the authenticity of the provider's information or have questions about what the service provider wrote on the form, you may contact the provider directly for clarification.

SAMPLE LETTERS FOR HOUSING PROVIDERS

REASONABLE ACCOMMODATION RESPONSE #1

Dear (tenant):

I have received your request for a reasonable accommodation, specifically, _____

Please provide me with a letter from your service provider confirming your disability status and need for the accommodation. (*Alternatively: Please come to the office to complete and sign a verification form that I will send directly to your service provider to confirm your disability and need for the accommodation.*) Once I receive the above letter, I will give prompt consideration to your request.

Sincerely,
Building Manager

REASONABLE ACCOMMODATION RESPONSE #2

Dear (tenant):

I have received your request for a reasonable accommodation, specifically, _____, together with your healthcare provider's letter documenting your disability and need for the accommodation. I will provide the requested accommodation as follows: _____

Sincerely,
Building Manager

REASONABLE ACCOMMODATION RESPONSE #3

Dear (tenant):

I have received your request for a reasonable accommodation, specifically, a reserved accessible parking space, together with your healthcare provider's letter. Your request is granted and I will begin the process of designating a parking space for your use immediately. Please contact me as soon as possible so that we may discuss which parking location(s) will best meet your needs.

Sincerely,
Building Manager

REASONABLE ACCOMMODATION RESPONSE #4

Dear (tenant):

I have received your request for a reasonable accommodation. I am unclear about your specific needs and would like to meet with you to discuss the accommodation request. Please contact me as soon as possible so that we may discuss what will best meet your needs.

Sincerely,
Building Manager

REASONABLE MODIFICATION RESPONSE

Dear (tenant):

I have received your request for a reasonable modification, specifically, to be allowed to install grab bars in the bathroom of your unit. I have spoken to the contractor you want to hire and he has assured us that the project will be done in a professional manner to building code.

Your request to make this modification is granted. Please let me know when the carpentry work begins and ends.

Sincerely,
Building Manager

DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION

Dear (tenant):

I have received your request for an accommodation for your disability, specifically, that we provide housekeeping services inside your unit. I have given your request reasonable consideration and have decided to deny this request.

As you may be aware, the management of the Olive Apartments provides general maintenance and cleaning of the common areas of the complex, and appliance repairs for tenants upon request. However, we do not provide housekeeping services for tenant units in general.

Management believes that the request to provide personal housekeeping services for a tenant would result in a fundamental alteration of our housing services. Under fair housing laws, we are not required to grant such requests, which are not considered reasonable.

If you have a need for reasonable accommodations, please contact me any time with a request.

Sincerely,
Building Manager

SAMPLE REASONABLE ACCOMMODATION AND REASONABLE MODIFICATION POLICY GUIDELINES FOR TENANTS WITH DISABILITIES

Making a Request

If you or a member of your household has a physical or mental disability and you need (1) a change or exception to any rule, procedure, or policy; or (2) a physical modification to your apartment, you may request that the management accommodate your needs. Fair housing laws require that housing providers provide reasonable accommodations and modifications to persons with disabilities. You are not required to disclose specifics about your disability. Although you can make oral requests, it is recommended that you make requests in writing.

If you are making a reasonable accommodation request to management, fully describe the required accommodation. If you know of resources that will make it easier or quicker for management to grant your request, include this information along with your request (for example, you may know of an inexpensive place to get written material put into Braille, or a community agency that provides free or low-cost modifications to units for persons with disabilities).

If you are requesting permission to make a modification to your apartment at your expense, be sure to provide the following with your request:

- Fully describe the intended modification(s).
- Agree to obtain any appropriate or necessary permits.
- Agree to have a licensed contractor perform the work.
- Agree to return the apartment to its original state, unless the modification will not interfere with the next tenant's use and enjoyment of the premises.
- (In some cases) Agree to pay into an interest-bearing escrow account, over a reasonable period, an amount of money not to exceed the cost of the restorations.

Verification and Documentation

The housing manager may need you to verify in writing that you or a member of your household has a disability and that the accommodation or modification is necessary to allow you or the household member to have an equal opportunity to use and enjoy the housing community. Any professionally qualified person or agency may verify your disability, such as a doctor, nurse, therapist, counselor, or social worker. You should ask this service provider to send a signed letter on professional letterhead to the

housing manager answering the following questions:

- Do you (or member of your household) have a physical or mental disability that limits a major life activity?
- In his/her professional opinion, do you (or member of your household) need the requested accommodation or modification in order to have the same opportunity as a non-disabled person to use and enjoy the housing community?

Alternatively: The housing manager will have you complete and sign a verification form that will be sent directly to your healthcare service provider. The provider will be asked to complete and sign the form and return it to the housing manager to process your request for an accommodation or modification.

You may not need to provide any verification of your disability from your service provider if you have other acceptable types of verification, such as a valid disabled parking placard, or proof that you qualify for certain disability-related services or benefits.

Providing Accommodations

The housing manager will discuss your request for a reasonable accommodation with you. In most cases, housing management will provide reasonable accommodations promptly, at management's expense. The manager will provide a letter outlining how and when the accommodation will be provided.

Sometimes, the specific accommodation you request may be difficult, time-consuming or expensive to provide, and the housing manager may suggest alternative accommodations that may work just as well. If you believe the accommodation you have requested is the only one that will work, be prepared to explain why. Have a back-up plan in mind and be willing to discuss alternatives.

If you and the housing manager disagree about whether the request is reasonable, the housing provider should be prepared to explain why. You may contact a fair housing agency in your area for advice and assistance.

If the housing manager determines that he/she grant your requested accommodation because it is too expensive or requires too difficult a change in the management practices, the manager will inform you so in writing. You will have an opportunity to meet with the housing manager to discuss the denial of the accommodation and discuss other reasonable alternatives.

SAMPLE LETTERS FOR TENANTS

This is a sample letter for tenants or prospective tenants to use when requesting a reasonable accommodation or modification.

REASONABLE ACCOMMODATION REQUEST #1

September 20, 2006

Dear Building Manager:

I live at the Olive Apartments at 123 Main in unit #200. I (or a member of my household) am a person with a disability.

Our building has a "no pets" policy. Because of my disability, a doctor has prescribed a service animal to assist with my daily living.

I am requesting that you make a reasonable accommodation in the building's rules to permit me to have a service animal in my apartment. My service animal is a golden Labrador retriever.

Please respond in writing to my request for a reasonable accommodation within a week. I look forward to your response and appreciate your attention to this matter.

Sincerely,

Bob Jones

[NOTE: You are not required to disclose the exact nature of your disability to the housing provider. However, you may share that information if you wish and if you believe it will assist them in providing you with reasonable accommodations.]

REASONABLE ACCOMMODATION REQUEST #2

Dear Building Manager:

I live at the Olive Apartments at 123 Main in unit #777. I (or a member of my household) have a mobility disability and use a California state disabled parking permit. I have enclosed a photocopy of my state parking permit. As an accommodation for my disability, I request that you provide me with a reserved accessible parking space nearest to the front door of my unit. I need a regular size parking space with no extra access aisle. I believe that the parking space at the end of the row nearest the mailboxes on the north side of Building 3 would be the best spot for me to access my apartment unit. Please respond in writing to my request for a reasonable accommodation within a week. I look forward to your response and appreciate your attention to this matter.

Sincerely,
Debbie Chin

REASONABLE ACCOMMODATION REQUEST #3

Dear Building Manager:

I live at the Olive Apartments at 123 Main in unit #600. I (or a member of my household) have low vision and need written materials in large print form (at least 20 point type).

As an accommodation for my disability, I request that you provide me with a large print copy of the lease, tenancy rules, safety rules, tenant notices, and other printed materials given to tenants or posted on the grounds.

Please respond in writing to my request for a reasonable accommodation within a week. I look forward to your response and appreciate your attention to this matter.

Sincerely,

Fernando Garcia