



REASONABLE ACCOMMODATIONS AND REASONABLE MODIFICATIONS UNDER THE FAIR HOUSING ACT - A POLICY RECOMMENDATION

Federal and state fair housing laws require housing providers to make changes in rules, policies, practices, or services, when such changes may be necessary to allow people with disabilities equal opportunity to use and enjoy their housing. These changes in policy are known as "reasonable accommodations."

In addition, housing providers must permit, at the expense of the Resident, physical changes to the premises, including the interior or exterior of housing, and the common areas, if those changes are necessary to afford people with disabilities equal opportunity to use and enjoy their housing. These physical changes are known as "reasonable modifications."

As a housing provider, it should be your standard operating procedure to make reasonable accommodations and allow reasonable modifications when necessary and requested for residents and/or applicants.

REQUEST: Reasonable accommodations and reasonable modifications need only be considered when they are requested; therefore, the person seeking the accommodation (or a representative on his or her behalf) must initiate the request.

No "magic words" are necessary to make a request for an accommodation or modification. If a reasonable person would interpret the request being made as one for something arising from a disability-related need, the request should be presumed to be for an accommodation or modification.

NO FORM REQUIRED: Ask the Resident/Applicant to make the request in writing and provide the form "Resident's Accommodation Request" to assist the Resident/Applicant in preparing the request. If the Resident/Applicant does not comply then you must rely on the verbal request for accommodation or modification and process as though you received the request in writing. If the Resident/Applicant does not put the request in writing, you should document the request yourself.

VERIFICATION MAY BE REQUIRED: If the disability and the disability-related need are readily observable, no third party verification is required to accommodate or allow the reasonable modification. A decision on the request should be made and the Resident/Applicant notified with the form letter "Determination on Accommodation Request".

If verification is needed because the disability or the disability-related need is not readily observable, you may require that the Resident/Applicant provide third-party verification. **YOU MAY NOT ASK ABOUT THE NATURE OR SEVERITY OF THE DISABILITY UNDER ANY CIRCUMSTANCE.**

If verification is necessary, have the resident sign the release on the upper portion of the Reasonable Accommodation Verification Form and provide the contact information for the verifier. A qualified verifier is a third-party professional who would be considered a reliable source for information regarding the need for the requested accommodation or modification. Note that the verifier need not be a medical doctor; social workers, physical therapists, psychologists, chiropractors and other professionals not holding a medical degree may be appropriate verifiers depending on the circumstances.

The Reasonable Accommodation Verification form should be sent directly to the designated verifier by the housing provider, and the completed form should be returned directly to the housing provider. If the Resident/Applicant provides a written verification without being asked (for example, a "doctor's note"), *and that verification provides the relevant information as sought in the Reasonable Accommodation Verification form*, no additional verification should be sought.

DETERMINATION ON THE REQUEST: Accommodations and modifications must be granted if they are *necessary because of a disability* and if they are *reasonable*. Whether a particular request is reasonable will likely require a request-specific examination of the relevant facts. A request is not reasonable if it would cause an undue financial or administrative burden on the housing provider, or if it would fundamentally alter the nature of the housing services provided.

The determination of whether to grant a particular request must be made by the housing provider in consultation with whomever the provider deems appropriate (site level management, direct or regional supervisors, corporate officers). A policy regarding whether legal review is required should also be established.

Once a determination is made, Resident/Applicant should be provided with a completed "Determination on Reasonable Accommodation Request" form, including the name and contact information where the Resident/Applicant may provide additional information, if desired.

Depending on the determination, additional documentation may be required. For instance, if the request is permission to perform modifications that will need to be restored at the end of tenancy, the terms of that work should be in writing.

ASSISTANCE ANIMALS: A request for an animal is a common example of an accommodation request. If an animal is *necessary because of a disability*, keeping that animal and not considering it a "pet" is likely a reasonable accommodation that must be made.

Since an animal needed because of a disability - called an "assistance animal" - is not a "pet," it will not ordinarily be subject to "pet rent," a "pet deposit," or any other customary fees. Further, an assistance animal must be allowed in housing that would otherwise exclude pets (including "no pet" buildings or sections of individual communities). Assistance animals are also not subject to weight, size, or breed restrictions applicable to pets.

Although most requests for an assistance animal will be for common domesticated animals, the Fair Housing Act does not have a species limitation on what is an appropriate assistance animal.



The request must be "reasonable," however; if you believe the kind of animal being requested may not be reasonable, seek appropriate advice.

ID cards or certificates for a "registered service animal" are not sufficient verification and should not be accepted independent of additional verification from a reliable source. Many online services ("letter mills") advertise "ESA prescription" letters for sale. Various websites (for example, National Service Dog Registry, Chilhowee Psychological Services, Agape Psychological Services) provide certificates and letters of prescription without what a reasonable housing provider would consider reliable proof of disability or disability-related need for an assistance animal. If you are presented with a "doctor's note" from an online source, or if you are asked to accept an animal's "registration" as proof of the need for an assistance animal, you should proceed with the third party verification procedure outlined above.

TIMELINESS OF RESPONSE: Because a delayed response to a request for accommodation or modification may amount to a denial, you should establish a policy of a set time period in which to respond to accommodation and modifications requests. That time period should be considered firm except in the most extreme circumstances.

DISCLAIMER: *This paper is intended as a summary of generally accepted accessibility principles. It is not intended as, and should not be construed as, either legal advice or statutory mandate. Always consult your legal counsel for interpretive and litigation advice.*

