



# Fair Housing for Tenants with Disabilities: Understanding Reasonable Accommodations and Modifications

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**REASONABLE  
ACCOMMODATIONS and  
MODIFICATIONS IN  
HOUSING:**

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**UNDERSTANDING YOUR  
FAIR HOUSING RIGHTS**

# Disability Rights Maryland

- Disability Rights Maryland (DRM): Maryland's federally designated Protection and Advocacy organization.
- **Mission:** To advance the civil and legal rights of people with disabilities by:
  - Enforcing fair housing rights
  - Preventing evictions and voucher terminations
  - Protecting against abuse, neglect and rights violations in state hospitals, state residential centers, and residential treatment centers for youth
  - Protecting the rights of persons living in nursing homes, prisons, DDA-funded residential services, residential rehabilitation services, and more
  - **Some other areas of work:** special education, transportation, voting advocacy, some Medicaid services.



# The National P&A System

Together, Protection & Advocacy agencies (P&As) comprise the nation's largest provider of legally-based advocacy services for people with disabilities. P&As have the legal authority to:

- Investigate suspected abuse or neglect and seek justice for victims and their families.
- Have access to records and facilities necessary to investigate abuse or neglect or to monitor the treatment and safety of residents.
- Pursue litigation and all other appropriate remedies under federal, state, and local law.
- Provide information and referrals regarding entitlements to services and other legal rights.
- Educate policymakers on needed reforms to disability-related laws and services.
- Training, presentations, outreach

# Find Your P&A Agency:

## Delaware

Community Legal Aid Society, Inc.  
Community Services Building, Suite  
801  
100 W 10th St  
Wilmington, DE 19801  
Phone: (302) 575-0660  
TDD: (302) 575-0660  
Fax: (302) 575-0840  
Web: [www.declasi.org](http://www.declasi.org)

## Maryland

Disability Rights Maryland  
1500 Union Ave, Suite 2000  
Baltimore, MD 21211-1982  
Phone: (410) 727-6352  
Toll-free: (800) 233-7201  
TDD: (410) 235-5387  
Fax: (410) 727-6389  
Web: [www.disabilityrightsmd.org](http://www.disabilityrightsmd.org)

## District of Columbia

University Legal Services  
220 I Street NW, Suite 130  
Washington, D.C. 20002  
Phone: (202) 547-0198  
TDD: (202) 547-2657  
Fax: 202-547-2083  
Web: <http://www.uls-dc.org/>

## Pennsylvania

Disability Rights  
Pennsylvania  
301 Chestnut Street, Suite  
300 Harrisburg, PA 17101  
Phone: 1-800-692-7443  
TDD: 1-877-375-7139  
Fax: (833) 699-2110  
Web: [www.disabilityrightspa.org](http://www.disabilityrightspa.org)

## Virginia

disAbility Law Center of Virginia  
1512 Willow Lawn Dr, Suite 100  
Richmond, VA 23230  
Phone & TDD: (804) 225-2042 |  
Toll-free: (800) 552-3962  
Fax: (804) 662-7431  
Email: [info@dlcv.org](mailto:info@dlcv.org)  
Web: <http://www.dlcv.org>

## West Virginia

West Virginia Advocates, Inc.  
Litton Bldg, 4th Floor  
1207 Quarrier St  
Charleston, WV 25301  
Phone & TDD: (304) 346-0847 |  
Toll-free: (800) 950-5250  
Fax: (304) 346-0867  
Web: [www.drofww.org](http://www.drofww.org)

# HUD Complaints as of 2023

- FHA complaints concerning denial of reasonable accommodations and disability access comprise 53.26% of all FHA complaints, and those involving requests for reasonable accommodations for assistance animals are significantly increasing.
- Most HUD charges of discrimination against a housing provider following a full investigation involve the denial of a reasonable accommodation to a person who **has a physical or mental disability that the housing provider cannot readily observe.**



Source: National Fair Housing Alliance, "Fair Housing Trends Report," August 8, 2023 ([New NFHA Report Reveals Highest Number of Housing Discrimination Complaints to Date – NFHA](#)).

# Road Map for Today's Training



- I. Overview of federal and state housing laws that protect the rights of people with disabilities
- II. Understanding reasonable accommodations and reasonable modifications
- III. Thinking through reasonable accommodations/modifications
- IV. Common barriers when requesting an accommodation and how to address them
- V. Applying skills you've learned to common scenarios



# SOURCES OF LAW

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# Fair Housing Laws Protecting Persons with Disabilities

The Federal Fair Housing Act, as amended, 42 USC § 3601 et seq.

Section 504 of the Rehabilitation Act of 1973, 29 USC § 794

- Covers housing that receives federal funding

The Americans with Disabilities Act, 42 USC § 12101 et seq.

- Title II (covers housing funded by state or local government)
- Title III (covers places of public accommodation, such as leasing offices)

# The Fair Housing Act



Enacted as Title VIII of Civil Rights Act of 1968 and amended in 1988 to prohibit disability discrimination in housing to overcome historic segregation.

- Applies to most housing, private and subsidized, including condominiums and HOAs;
- Prohibits discrimination in sale, rental or terms and conditions of housing on basis of disability;
- Prohibits discrimination in application and screening phase, tenancy or eviction proceedings.

BUT, for those with disabilities, the FHA ALSO

- Requires affirmative actions to provide opportunity (accommodate) and a minimum level of accessibility.

Under the FHA,  
it is illegal to  
take the  
following  
actions based  
on a person's  
disability

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Refuse to sell or rent

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Make housing unavailable

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Advertise housing as available only to people without disabilities (or to those who can "live independently")

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Discriminate in terms, conditions, privileges in sale or rental (e.g., requiring a co-signer or case manager)

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Refuse to make reasonable accommodations (must be specifically requested)

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Refuse to permit reasonable modifications to unit, at the tenant's expense

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Threaten, coerce or retaliate against anyone for exercising a fair housing right

# FHA Exemptions



1. Single-family housing sold or rented without the use of a real estate broker



2. Housing operated by organizations and private clubs that limit occupancy to members



3. Housing legitimately restricted to seniors 62 and older, or 55 and older (80% rule)



4. Owner-occupied buildings with four or fewer units

# FHA Accessibility – Which Units Are Covered?



Multifamily complexes with four or more units (or with any number of units so long as landlord does not live there)



In developments constructed for first occupancy after March 13, 1991



All units in elevator buildings



Ground floor units only in non-elevator buildings

# FHA Accessibility Rules: Adaptable features

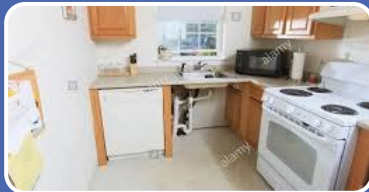
[Fair Housing Act  
Design Manual  
available](#)



Bathroom –reinforced walls for grab bars



Lowered controls within reach



Useable kitchens and bathrooms (room for maneuvering with wheelchair and can be modified)



Accessible routes



Common areas (e.g., laundry rooms, management office, lobby bathrooms, one accessible entrance)

# Section 504 of the Rehabilitation Act



- The first United States civil law protecting people with disabilities.
- No qualified individual with a disability shall be excluded from, denied the benefits of, or be subjected to discrimination under any program or activity that receives federal financial assistance.
- Requirements include reasonable accommodations, program accessibility, modifications, effective communication with people who have hearing or vision disabilities, and accessibility rules for new construction and alterations.



# Covered Properties

Note: This is not a complete list

But...

Public Housing

Project-Based Section 8

Project-Based Rental Assistance (in-house HUD Section 8) & RAD

HOME funded

USDA/RDA

Section 202 Supportive Housing for the Elderly

NOT Tenant-based Section 8 or older low-income housing tax credits (LIHTC) or state funded projects unless there is other federal funding in the project.

**In MD, new LIHTC funded communities as of 2018 are covered.**



# Americans with Disabilities Act

- Title II covers all activities of state and local governments, regardless of size of entity or whether a recipient of federal funds. Extends Section 504 requirements.
- Requires that entities ensure access to programs and services; includes PHAs and housing offices.
- Requires people with disabilities to have equal opportunity to participate in and receive equal benefits of government goods, services, and programs.
- State and local governments are required to follow architectural standards with new construction and alteration of buildings/facilities.
- Must provide reasonable accommodations and effective communication.
- Title II requires housing owned or operated by a state, county or local government to make reasonable modifications to both new and existing facilities.



# ADA



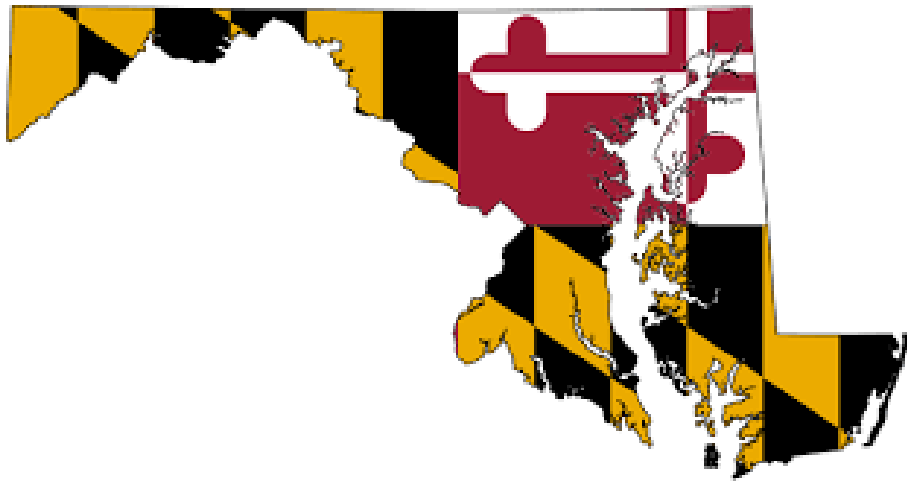
Doesn't cover private housing nor expressly housing but does cover public entities and PHAs.

Also covers areas in the development that are open to the public, such as leasing offices, swimming pools, etc.

Covers services to obtain housing, e.g., administrative offices, application process, inspections, recertifications.

Accommodations not required if fundamental alteration or undue financial/administrative burden.

# Maryland Fair Housing Act



- ❑ Substantially equivalent to the federal FHA
- ❑ Adds additional protected classes
  - Sexual orientation
  - Marital status
  - Gender identity
  - Source of Income
- ❑ Exception: multifamily housing of not more than five units if owner maintains dwelling as principal residence
- ❑ Some jurisdictions have local ordinances with additional protections
- ❑ Complaints can be made to
  - Maryland Commission on Civil Rights (within one year)
  - HUD (within one year)
  - Local Human Rights Commissions

# REASONABLE ACCOMMODATIONS

# Reasonable Accommodation

A **Reasonable Accommodation** is a change in rule, policy, practice, or service that may be necessary to allow a person with a disability equal opportunity to use and enjoy a dwelling unit or common space.

Reasonable accommodations may be necessary at all stages of the housing process, including application, tenancy, or to prevent eviction.



# Who is a Person with a Disability?

## FHA and ADA Definition:

- "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."
- **Important:** an individual does **not** have to be approved for SSI or Social Security Disability Insurance (SSDI) to meet this definition.
- If the disability is not apparent or obvious, a medical professional can verify that they meet the definition under the FHA or ADA. This includes physician, social worker, therapist, and case manager if they have personal knowledge.

*The FHA exempts from the definition those whose sole disability is current addiction to illegal drugs.*



# Reasonable Accommodations in Housing: Legal Requirements



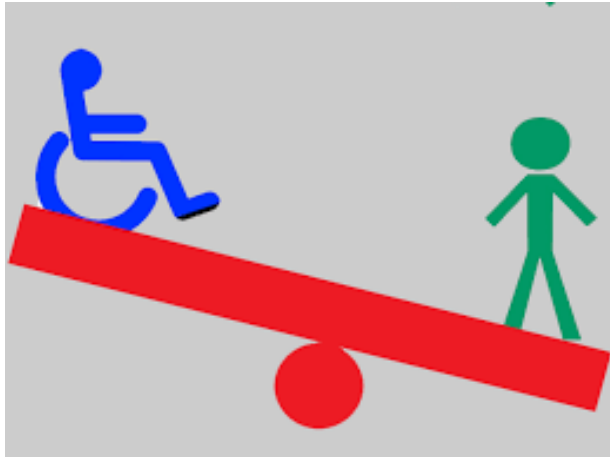
Federal and state laws prohibit housing discrimination against qualified persons with disabilities.

- Discrimination includes, a refusal to make Reasonable Accommodations. 42 USC § 3604(f)(3)(B).

A Reasonable Accommodation is a change, exception, or adjustment to rules, policies, practices or services, when such accommodations may be *necessary, to afford a person with a disability equal opportunity* to use and enjoy a dwelling.

- Examples: (a) permitting a change in the date a tenant's rent is due, consistent with receipt of SSA benefits; (b) allowing an applicant to have an emotional support animal (ESA) in an apartment with a "no-pets" policy; (c) granting a transfer request for reasons related to disability (without charging a fee). Note: There must be a connection, or *nexus*, between the accommodation requested and the person's disability.

# FHA Accommodations



- Cost of *reasonable accommodation* not on tenant;
- Parking spaces, signs, restriping considered reasonable accommodations;
- Must be specifically requested in most instances
- Must be a qualified person with a disability, require the accommodation due to the disability, and the accommodation must be necessary to afford equal opportunity to use and enjoy the housing;
- Housing provider **must** grant request unless undue financial and administrative burden or fundamental alteration of program.

# Reasonable Modification- Defined

- A **Reasonable Modification** is a physical alteration to the existing premises to afford a person with a disability full enjoyment of the premises.





# Reasonable Modifications

Examples include providing:

- A ramp to allow access to the dwelling through an exterior door
- Grab bars in the bathroom
- Levered door handles
- Specialized alarms for vision or hearing-impaired persons
- Lowered mailbox for a person using a wheelchair
- Lowered light switches or countertops



# Reasonable Modifications Under the Fair Housing Act

- Generally, the **tenant** is responsible for making and paying for accessibility modifications that are needed
- Exceptions: if the development was already required to have been accessible under the FHA, or if there is DHCD or federal funding involved (not a tenant-based Housing Choice Voucher or other rental subsidy)
- HUD has said that the tenant may be responsible for restoring the apartment to its original state when he or she moves out, but **ONLY** if it impacts the marketability of the unit

# Reasonable Modifications Under the Fair Housing Act, Continued



- Generally, restoration is not required if widening doorways, installing grab bars, or installing accessible route to sidewalk
- Tenants are permitted to make modifications to common areas
- Landlord can require approval of plans and contractor, but cannot require a more expensive modification be made
- Landlord must maintain the modification to a common area once installed by the tenant; mods used exclusively by tenant are their responsibility.

# Paying for Modifications (Maryland Examples)



- Medicaid waivers
- Local programs
  - Baltimore County – CHAMP (also has a modification program for HCVP participants pursuant to the Voluntary Compliance Agreement (VCA))
  - Baltimore City – HCVP participants, seniors (62 and older)
  - CDBG funded programs
  - Local charitable organizations
- DDA – Low Intensity Support Services (LISS)
- DHCD Single Family Home Modification Programs
  - [MD Housing Rehabilitation Program – Single Family](#)
  - [MD Whole Home](#)
  - [MD Accessible Homes for Seniors](#)

Resource: [MDOD Home Modifications Directory](#)

## Fair Housing Act: Fundamental Alterations and Undue Burden

Fundamental alterations and undue financial burden defense determined on case-by-case basis.

### *Individualized determination*

BUT, if defense met, the housing provider must continue to consider alternative accommodations that would meet the person's needs.

Example: Tenant who uses a wheelchair can't use dumpster to dispose of trash. Tenant requests that maintenance collect trash daily. HUD has said this might be an undue burden for small operation but reasonable to do so twice a week and supply inside trash unit.



**EQUAL HOUSING  
OPPORTUNITY**

# Examples of Undue Financial and Administrative Burden



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Request for modifications that cost too much; e.g., walk-in showers in high-rise developments that have concrete floors

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NOTE: In existing federally subsidized housing units, a request for modifications to create a new UFAS unit, IF the development already has 5% of its units UFAS-compliant

UFAS = Uniform Federal Accessibility Standards

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Requests for programmatic changes that are outside of the main business of housing, e.g., requests to walk or care for service animals

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NOTE: HUD will consider a request to use residual receipts to pay for alterations under Section 504. If the property is owned by a housing provider that is not covered by Section 504, then under the Fair Housing Act, tenant would still have the right to make the alterations at their own expense

# Is the Development Federally Subsidized?

How to know if the development is receiving or has received federal funding

- Reasonable rents; income-based rents
- Check the National Housing Preservation Database at: <http://www.preservationdatabase.org/>
- Tenants required to recertify or present income information yearly
- Lease addendums from HUD
- Ask!
- Call CDA or HUD
- Research deed restrictions - <https://mdlandrec.net/main/>

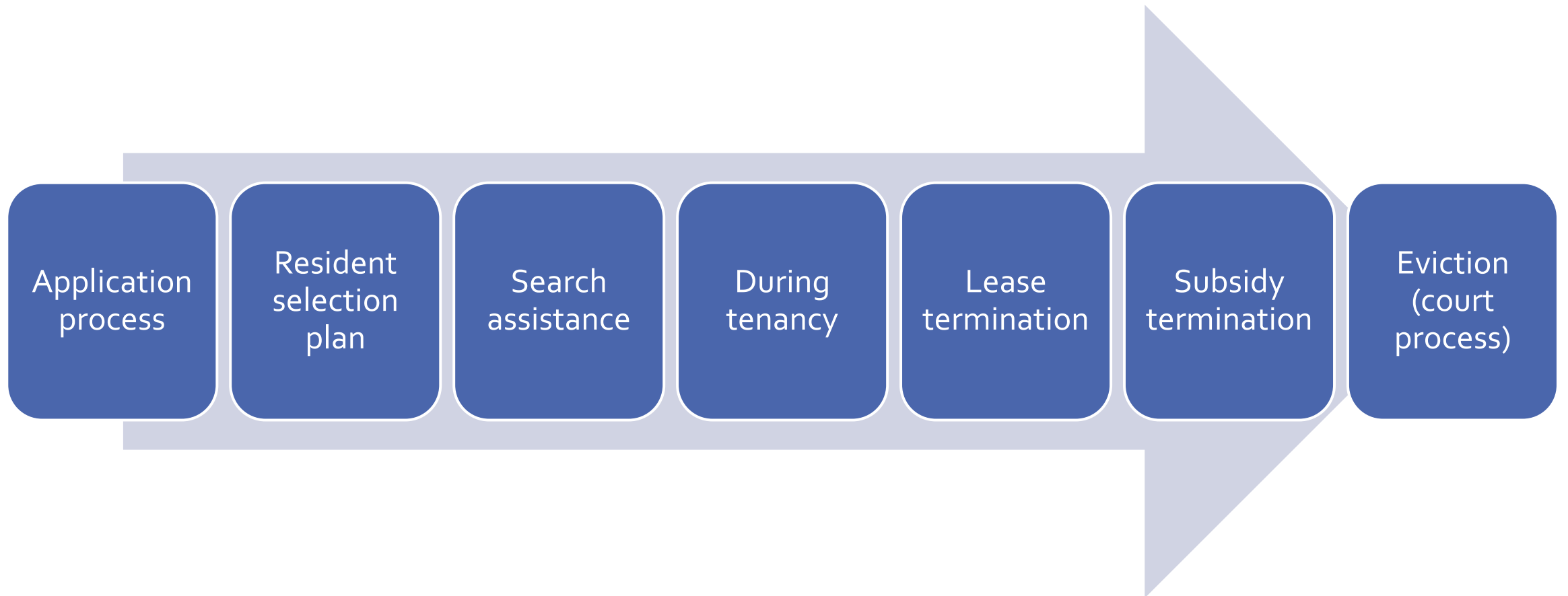
Why is this important?



## THINKING THROUGH ACCOMMODATIONS & MODIFICATIONS

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# Reasonable Accommodations: From pre-lease to end of tenancy





# Common Barriers to Accessing Housing for People with Disabilities

Getting on/Staying on Waiting List

Missing documents

- State issued photo ID
- Birth certificate
- Social Security card

Inability to obtain documents

- Accessing bank statements
- Accessing income information

References

Access – inability to search for housing or get to interviews

Deadlines

- Missing deadlines or interview letters
- Missing deadlines because of lack of stable mailing address

Credit Issues

Criminal background

# Reasonable Accommodations in the Application Process

Barrier	Possible Accommodation
Vision impairment	Provide applications in alternative formats
Learning disability, development delay; difficulty reading	Provide assistance with completing application through applicant portal
Required documentation is not readily available or has not been obtained	Allow applicant to submit application and provide additional time to update with documentation
Challenges with understanding communications and/or organizing responses	Ensure PM/PHA provides the Supplemental and Optional Contact Information for HUD-Assisted Housing Applicants. (OMB Control # 2502-0581).



# Accommodations for Credit Issues

Barrier	Possible Accommodation
Poor credit due to disability-related medical bills or loss of employment	Waive credit requirement (as of 7/1/22, medical bills under \$500 should not be listed on credit reports)
Not able to pay attention to bills or to organize repayment, perhaps due to ineffective/lack of treatment	Waive credit requirement based on applicant getting subsequent treatment, and/or assistance from staff/others to pay bills, or use automatic payment to pay rent
Change in cognitive functioning	Waive credit requirement based on getting assistance from staff/others to pay bills in a timely manner or use automatic payment to pay rent

# Accommodations for Criminal Background Issues



## Criminal background screening

- Application may be refused based on criminal history if everyone is asked about such convictions
- Subsidized housing providers may only deny applicants based on convictions.
- Private, non-subsidized housing providers must evaluate whether their criminal background policy has a disparate impact on any protected group and also must demonstrate that their criminal background screening policy is necessary to achieve a substantial, legitimate, non-discriminatory interest.
- Denials based on arrest records and blanket bans on anyone with a criminal conviction don't meet this test.



# Accommodations for Criminal Background Issues- Examples

## Reasonable Accommodation Examples

- Completion of drug treatment program
- Passage of time
- Evidence from healthcare professional that person is stable and in treatment
- Personal supports to maintain positive behavior

Request must demonstrate nexus between disability and criminal activity

A Reasonable Accommodation must be provided if it would reduce the threat or to provide equal opportunity

Federal housing assistance cannot be provided in the following two situations:

- Lifetime sex offense registry requirement
- Production or sale of methamphetamine on federally assisted property

# Accommodations for Additional Bedroom

## Live-in Caregiver

- Medical documentation of need is typically required
- Specific caregiver must pass background check
- Caregiver's income is not included in household income and credit is not considered in background check
- Caregiver is not a tenant and does not have any tenant rights
- Caregiver can be a family member EXCEPT spouse
- Caregiver is not required to be with the tenant at all times
  - Tenant may have other support services during the day and evening

## Medical Equipment

- Medical documentation of need is always required
- Equipment must be large or numerous enough to require additional space for storage
- Caregiver (if any) may be required to store some equipment in their bedroom
- Examples: Hoyer lift, additional power wheelchair



HUD refers to Emotional Support Animals & Service Animals as  
"Assistance Animals"



HUD uses the ADA definition of service animal to distinguish them from other assistance animals:

- A "service animal" means a **dog** that is individually trained to do work or perform tasks (at least one) for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental health disability.
- An assistance animal must be an animal commonly kept in households (dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure).
- Can go anywhere tenant can go, including common areas
- **Must be under tenant's control at all times**
- Housing providers may impose reasonable requirements for health and safety reasons (vaccinations, requirement that animal be leashed, proper waste disposal)
- Pet deposits and additional fees, insurance are **NOT** permitted.
- Requiring Service animal or ESA to be registered is **NOT** permitted.
- Expenses related to the animal can be a medical deduction from income
- Housing providers are required to accommodate non-residents who have service animals

# Questions a Housing Provider May Ask About Assistance Animals



1. Does the person have a disability?
2. Is the animal a dog? If yes, "What work or task has the dog been trained to perform?" If the dog performs a disability-related task, this is a service animal.
3. If the animal is not a dog, does the person have a disability-related need for the animal?
4. The need for the animal may need to be verified with documentation from a healthcare professional

## Exceptions:

1. Specific animal poses a direct threat to others on the premises
  - a. Specific animal may need to be removed from property, but accommodation remains in effect
2. Specific animal would cause significant damage to property of others that could not be eliminated with a reasonable accommodation

# Supportive Services in the Community

- Many people with disabilities receive in-home supportive services to allow them to live in their communities.
- E.g., Individuals may have rotating caregivers, frequent visitors to their units, or need accommodations to the overnight visitor policy or a policy requiring residents to meet their visitor in the lobby and escort them to and from their unit.
- Staff who assist with community support services may not be dressed in typical caregiver or clinician scrubs or uniforms.

Making assumptions about an individuals' circumstances or activities based on stereotypes may constitute unlawful discrimination based on disability (as well as race, color, national origin, etc.).

# Reasonable Accommodations to Prevent Eviction



Landlords can end a lease if tenant has breached their duties under the lease.

Lease violations can include

- Failure to pay rent
- Failure to maintain utilities
- Unauthorized occupants
- Health and safety – damage, criminal activity, hoarding, unsanitary conditions
- Threatening behavior

Examples of Accommodations

- Additional time to:
  - Pay rent if non-payment is related to disability (Retroactive recertification, repayment plan)
  - Clean up, remove excess stuff
- Participate in treatment to address threatening behavior, hoarding, etc.
- Allow someone to stay with tenant due to temporary health reasons related to disability
- Allow a transfer to a ground-floor unit if neighbors below complain about excessive noise

# Threatening Behavior



- A tenant can request a reasonable accommodation to have equal access. Can take the form of additional time to comply with the lease:
  - Allow time for individual to get back into treatment for their disability, get counseling, allow for support from family, friends or disability providers.
  - Landlord does not have to grant an accommodation if the individual would pose a “direct threat” to the community even with the accommodation.
- The *individual*, not a stereotype of the individual (e.g., those with a particular mental illness) must pose the threat.
- There must be direct, objective evidence of the threat. Generalized assumptions, subjective fears, and speculation are insufficient to prove the requisite direct threat to others.

# Making Reasonable Accommodation Requests



By Whom?	<ul style="list-style-type: none"><li>• Person with disability</li><li>• Healthcare provider</li><li>• Family/friend</li><li>• Advocate /Lawyer</li></ul>
To Whom?	Any person employed by the housing provider <ul style="list-style-type: none"><li>• Property manager</li><li>• Maintenance</li><li>• Other</li></ul>
When?	Requests can be made at any time during application, tenancy and eviction process
How?	Can be verbal Best to request in writing Letter should include: <ul style="list-style-type: none"><li>• Statement that person has a disability</li><li>• Accommodation that is needed (as specific as possible)</li><li>• Why the accommodation is necessary for the tenant with a disability (nexus)</li><li>• Requestor cannot be required to use a particular form</li></ul>

# Reasonable Accommodations Requests – Interactive process

## Housing provider may ask for certain information

- Documentation from a healthcare professional that the accommodation is needed due to the disability UNLESS the need is obvious
- Healthcare professional is someone who has sufficient knowledge of the disability to confirm the need. Examples (not all inclusive):
  - Physician
  - Nurse
  - Social worker
  - Case Manager
  - OT, PT
  - Therapist
- Specific form for medical documentation cannot be required
- Person CANNOT be required to disclose diagnosis, specifics of a disability or to provide a full copy of their medical history

# What happens next?

A housing provider has an obligation to provide a prompt response to a reasonable accommodation request. An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.

*See, 2004 Joint Statement between HUD and DOJ: Reasonable Accommodations under the Fair Housing Act, pg.11.*

<https://www.hud.gov/sites/dfiles/FHEO/documents/huddojstatement.pdf>.

## If request is approved

- Response should provide timeframe for providing the accommodation
- Housing provider may propose an alternative strategy for providing the accommodation, but this is not definitive
- HUD has opined best practice, generally, is response within 10 days of submitting documentation

## If request is denied

- Must give reason for denial
- Housing provider must engage in dialogue with requestor to determine **other** possible solutions
- If housing provider claims the requested accommodation would be an administrative & financial burden, they have the burden of proof in establishing such admin & financial burden. *See, Cameron Grove v. State of Md. Commission on Human Relations, 431 Md. 61 (2012).*

# How to Enforce Your Rights

Maryland Commission on Civil Rights: [Maryland Commission for Civil Rights](#)

Virginia Fair Housing Office: [Fair Housing Policy](#)

[Pennsylvania Human Relations Commission](#)

West Virginia Human Rights Commission: [Housing](#)

[District of Columbia Office of Human Rights](#)

Delaware: Division of Human and Civil Rights: [How To File A Complaint - Division of Human and Civil Rights - State of Delaware](#)

You can also file with HUD: [HUD-903 Report Housing Discrimination](#)



# Contact Information

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(443) 692-2510

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  - If the code and receipt of purchase are not provided by this date, a full refund will be issued, minus any processing fees.
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Thank You for Joining Us!

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Local: **301-217-0124**

[ADAinfo@transcen.org](mailto:ADAinfo@transcen.org)

[ADAinfo.org](http://ADAinfo.org)