

Understanding Reasonable Accommodations and Modifications in Pennsylvania



Self-Determination Housing Project of Pennsylvania

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What is a Reasonable Accommodation?

A reasonable accommodation is a change in policies, practices, or services, when such a change may be necessary to afford a person with a disability equal opportunity and physical access to use and enjoy a dwelling. Common examples include waiving a "no pet" policy for a service animal or providing parking closer to the building.

What is a Reasonable Modification?

A reasonable modification is a structural or physical change to a unit or housing structure to provide access to a person with a disability. It is unlawful for a building owner to refuse to permit modifications at the resident's expense. As long as the resident assures that the work will be done in a professional manner and that the unit can be restored to its pre-existing condition upon moving out if the modification affects the future usability of the building, the request must be granted. One example is removing a kitchen base cabinet and lowering the countertop to allow for a wheelchair. The lowered cabinets may need to be restored if the next tenant does not need them lowered. However, if doorways were widened by the tenant with a disability, they need not be restored to their original condition, as the extra width will not impair the apartment's usability for future tenants.

It is important to note that the financial responsibility for making reasonable modifications is different for public housing than for units which are privately owned or managed, such as those under the Housing Choice Voucher program. Where federal money partially or entirely funds the housing units, the owner of the housing must pay for the modifications because of Section 504 of the Rehabilitation Act of 1973. Where there is no federal funding in the housing unit, as is the case when a private landlord accepts a housing choice voucher, the landlord is not subject to Section 504. Instead, the tenant bears the cost of the reasonable modification.

What is Reasonable?

According to Fair Housing law, "reasonable" means that the action requested by the individual with the disability:

- ◆ Does not cause an undue financial or administrative burden to the housing provider;
- ◆ Does not cause a basic change in the nature of the housing program available;
- ◆ Will not cause harm or damage to others;
- ◆ Is technologically possible.

Sometimes a reasonable accommodation results in a landlord changing a policy or practice; sometimes it allows a tenant to alter behavior or practices and still be considered lease compliant. In either case a reasonable accommodation may often allow a tenant with disabilities to remain in private, public or subsidized housing when rules, policies, or practices would otherwise prohibit tenancy.

For example, courts have held that a landlord cannot proceed with an eviction of a tenant with a disability, even when a tenant has violated his or her lease because of violent behavior, if the tenant shows that he or she may be able to remain lease compliant when given the opportunity to obtain services or take action to correct the lease violation. This use of reasonable accommodation not only preserves housing for a person whose disability is interfering with his or her successful maintenance of stable housing, but also allows a tenant with disabilities to identify and resolve issues that would inhibit more general integration into community life.

Requesting Reasonable Accommodations and/or Modifications:

It is the responsibility of the consumer to make a request for an accommodation or modification. A landlord or property manager is not expected to be able to predict or anticipate an individual's needs. Requests should be made in writing, so that both landlord and tenant will have a record of the request. If the request goes unanswered, the consumer can then file a formal complaint. To ask for an accommodation under the FHA, (if the request was refused by the housing provider) a person must show that:

- He or she has a disability as defined in the Act (A letter from a psychiatrist, doctor, psychotherapist, or other knowledgeable professional should be sufficient to verify a person's disability status and the relationship of the accommodation to the disability.);
- The housing provider knew of, or should reasonably be expected to know about the disability;
- Accommodation of the disability "may be necessary" to afford the person an equal opportunity to use and enjoy a dwelling (The person requesting an accommodation must show that the specific accommodation he or she is requesting is necessary to overcome a housing barrier imposed solely because of his or her disability.);
- The housing provider refused to make such an accommodation.

An accommodation or modification request can only be denied if it is not reasonable as outlined above. If a housing provider has doubts about what is reasonable, they can contact an attorney, supervisor, or Housing & Urban Development's Office of Fair Housing and Equal Opportunity.

A housing provider cannot defend its refusal of an accommodation request on the basis that he or she does not believe the accommodation would best meet the needs of the consumer who requested the accommodation.

Information a Landlord Can Request:

Under fair housing and civil rights laws, landlords can request verification from a medical professional or professional service provider (such as a social worker) to indicate a tenant requires a reasonable accommodation or modification.

A person requesting a modification or accommodation must disclose the existence of the disability, if it is not obvious, and how the requested accommodation or modification relates to the disability.

It is illegal for a landlord to ask a tenant about the nature or severity of the disability, how the disability was acquired, or what medications are taken. However, if an accommodation or modification is requested, the landlord may ask for specifics that would disclose this information.

For a modification, a landlord may ask to inspect or review site plans and demand that they are completed in a professional manner. Aesthetics is NOT a defense in denying a modification request. For example, a landlord cannot deny a request for a sturdy, metal railing, on the grounds that a less sturdy, wooden one would look better.

Financial Responsibility for Reasonable Modifications

Private Rental Housing:

The Fair Housing Amendments Act of 1988 (FHAA) requires the owner of a private apartment building to allow a tenant to make reasonable modifications to his or her unit. The tenant, however, is responsible for making and paying for any modifications, and may have to restore the premises to its original condition when he or she moves. For example, a housing provider must permit a modification for a person who uses a wheelchair to install ramps, widen doorways, etc. Under the FHAA, these changes would be at the tenant's expense. In addition, a tenant might be charged for returning the premises to their former condition if the changes are undesirable for future tenants.

Federally-Assisted Rental Housing:

In Federally-Assisted housing (covered by Section 504 of the Rehabilitation Act), the property owner/manager is generally required to install and pay for the modifications if the cost is not prohibitive. For example, a Public Housing Authority (PHA) might be required to install grab bars in a bathroom and/or build a ramp to a front door for a resident with a disability. Whether the cost of a modification is reasonable or not is evaluated on a case-by-case basis. Factors for consideration include but are not limited to the size of the housing owner's budget, whether the housing owner has accessible units available and the cost of the modification.

Housing Choice Voucher Rental Assistance:

A private landlord participating in the Housing Choice Voucher program is generally not required to pay for modifications. However, the tenant can request that the PHA administering the Housing Choice Voucher provide a "reasonable accommodation" to pay a higher rent for the unit, in order to allow the landlord an increase in rent to compensate for the necessary modifications.

What if a Request is Denied or Goes Unanswered:

If a request is denied or goes unanswered, the consumer can file a complaint under the Fair Housing Act (FHA) through the nearest regional office of U.S. Department of Housing and Urban Development or the Pennsylvania Human Relations Commission*. To file a complaint under the FHA, a person must show that:

- He or she has a disability as defined in the Act (A letter from a psychiatrist, doctor, psychotherapist, or other knowledgeable professional should be sufficient to verify a person's disability status and the relationship of the accommodation to the disability.);
- The housing provider knew of, or should reasonably be expected to have known about the disability;
- Accommodation of the disability "may be necessary" to afford the person an equal opportunity to use and enjoy a dwelling (The person requesting an accommodation must show that the specific accommodation he or she is requesting is necessary to overcome a housing barrier imposed solely because of his or her disability.);
- The housing provider refused to make such an accommodation.

Where to File a Complaint:

Housing and Urban Development Office

Office of Fair Housing and Equal Opportunity
888-799-2085 TTY: 1- (800) 927-9275.

PA Human Relations Commission*

Pittsburgh Regional Office

(412) 565-5395
(412) 565-5711 TTY

Harrisburg Regional Office

(717) 787-9780
(717) 787-7279 TTY

Philadelphia Regional Office

(215) 560-2496
(215) 560-3599 TTY

* PHRC intake workers can assist callers in determining whether an individual might have a valid Fair Housing Complaint and are available to help draft complaint documents, if needed.

Examples of Reasonable Accommodations

- Mailing or delivering an application to a tenant, where limited mobility would make it difficult for that person to pick up the application at the housing authority.
- Allowing someone to have a service animal in their unit in a no-pets apartment building, where the need for the service animal is disability-related.
- Creating an exception to a building's parking policy for a tenant to be near a building's entrance due to a mobility disability.
- Meeting with a person who uses a wheelchair outside of an office space that has a glass front wall or a high counter, so the individual can meet face-to-face.
- Accepting a reference from an applicant's employer or social worker in lieu of a traditional housing reference, where a tenant's past institutionalization means they have no rental history.
- Providing an oral reminder of the date each month's rent is due to a tenant with an intellectual disability.
- Allowing an attendant to fill out necessary paperwork such as leases, agreements and applications, that would otherwise be difficult for that person, with a disability, to complete.
- Allowing a disabled tenant to have a two-bedroom unit so their live-in attendant can live with and assist them.
- Providing a sign language interpreter at resident meetings for a tenant with a hearing disability.
- Modifying rules regarding credit history in the rental application process if a prospective tenant's bad credit is due to disability-related medical bills.

Examples of Reasonable Modifications

- Installing faucets that shut off automatically for a tenant with a cognitive disability.
- Widening doorways in a unit, removing or lowering below-counter cabinets, insulating kitchen and bathroom pipes to prevent burns, or installing a ramp to make an entrance accessible, for individuals using wheelchairs.
- Installing extra cable/electrical lines so an individual with a hearing disability can use high-tech computer equipment that enables communication.
- Replacing door handles with door levers, for a tenant who has difficulty using knobs.
- Placing floor numbers in Braille on the elevator panel, adding high marks (a liquid that hardens and becomes raised within 24 hours) on stove dials, painting curb cut areas bright yellow, for individuals who have visual impairments.
- Placing a peephole in the front door to enable individuals with a hearing disability to see who is at the door before opening it.
- Installing handrails on steps and/or in long hallways to provide increased stability for a tenant with limited sight or balance concerns.
- Reinforcing walls to enable secure installation of grab bars, patients lifts, or other adaptive technology.

All “reasonable” requests for modifications should be granted. Financial responsibility for modifications varies depending on the circumstances; see page 6 for clarification.

Suggested procedure for writing a reasonable accommodation or modification request:

1. Indicate that you qualify as a person with a disability as defined by civil rights laws. It is not necessary to reveal the nature or severity of your disability, unless you feel comfortable in doing so.

“I qualify as an individual with a disability as defined by the Federal Fair Housing Act Amendments of 1988.”

2. State where you live and who is responsible for the building.

“I live at 805 W. Green Street, Apartment #2A. This building is managed by John Doe and owned by you, Jane Smith.”

3. Describe the policy, rule, or architectural barrier that is problematic to you.

“Rent must be paid on time or the tenant can become evicted.” or “There is not any reserved accessible parking in our building’s parking lot.”

4. Describe how this policy or barrier interferes with your needs, rights, or enjoyment of your housing.

“I am unable to pay my rent on time without a reminder.” or “I am unable to park in regular sized parking places because I need additional space to transfer from my car into a wheelchair.”

5. In clear and concise language, describe the change you are seeking in the policy, rule or barrier.

“I am requesting oral reminders to pay the rent or that the landlord agrees to call or visit to remind me before each month’s rent is due.” or “I am requesting that you designate a reserved parking space for disabled persons next to the curb cut on the west side of the parking lot.”

Suggested procedure for writing a reasonable accommodation or modification request: Cont.

6. Cite the applicable law that protects your rights.

For accommodations, use:

“Under the Federal Fair Housing Act Amendments Sec. 804 (42 U.S.C. 3604) (f) (3) (B), it is unlawful discrimination for a management company to deny a person with a disability a reasonable accommodation of building rules or policies if such accommodation may be necessary to afford such person full enjoyment of the premises.”

For modifications, quote the law as follows:

“Under the FHAA, Sec. 804 (42 U.S.C. 3604) (f) (3) (A), it is unlawful discrimination for a management company to deny a person with a disability a reasonable modification of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises.”

7. Ask for a written response within a certain amount of time.

“Please respond in writing to my request within 10 days.”

8. Sign and date the request. Remember to keep a copy of your request for your files.

9. If the request is denied, contact legal counsel to determine if your rights have been violated.

Reasonable Accommodation Sample Letter

Date

Name of Building Manager, Property Name
123 Name St.
Wherever, PA

Dear :

I, (Name), qualify as a person with a disability as defined by the Fair Housing Act Amendments of 1988. I live at (Address including apartment/Unit number). Because of my disability, I require medical treatment in order to function effectively in my unit. Because of the absence of that treatment over (Time period during which you did not receive treatment), I (Explain negative result with housing provider; be disruptive or pay rent late, etc.).

Therefore, I am requesting a reasonable accommodation to modify your (Housing provider’s rule that was recently violated; occupancy rules/rent payment) policy to allow me 2 months to find and resume medical treatment. It has been my experience that once I resume treatment, the disability-related conduct I recently displayed is unlikely to return.

Attached you will find documentation from my (Name of professional such as psychiatrist, social worker) attesting to my disability and the limitations I experience as a result.

This request is a reasonable accommodation request of my disability as protected by the Fair Housing Act:

“Under the Fair Housing Act Amendments Sec. 804 (42 U.S.C. 3604) (f)(3)(B), it is unlawful discrimination for a management company to deny a person with a disability a ‘reasonable accommodation’ of building rules or policies if such accommodation may be necessary to afford such person full enjoyment of the premises.”

Please respond in writing to my request for a reasonable accommodation within ten days of the date of this letter. I look forward to your response and appreciate your attention to this critical matter.

Sincerely,

(Print & Sign Name)

Reasonable Modification Sample Letter

Date

Name of Building Manager, Property Name
123 Name St.
Wherever, PA

Dear:

I, (Name), qualify as a person with a disability as defined by the Fair Housing Act Amendments of 1988. I live at (Address including apartment/Unit number).

I have a (Explain type such as physical, visual etc.) disability that affects my/requires that I use a (Explain what activities your disability impairs or what it requires you to use). As a result, I am unable to (Explain location you are unable to reach or have access to).

Therefore, in order to allow me to use and enjoy my unit with my disability, I am requesting a reasonable modification to (Describe modification).

This request is a reasonable modification request of my own disability as protected by the Fair Housing Act:

“Under the Fair Housing Act Amendments Sec. 804 (42 U.S.C. 3604)(f)(3)(A), it is unlawful discrimination for a management company to deny a person with a disability a ‘reasonable modification’ of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises.”

Please respond in writing to my request for reasonable modification within ten days. I look forward to your response and appreciate your attention to this critical matter.

Sincerely,

(Print and Sign Name)

Process of Filing a Complaint

Intake:

Anyone can file a complaint for free with HUD or the Pennsylvania Human Relations Commission (PHRC).*

- After initial intake, HUD or PHRC will conduct an interview to obtain the facts. If HUD and/or PHRC find that the matter is under their authority to investigate, a formal complaint will be filed with HUD and the investigation will begin.
- If HUD has determined that your state or local agency has the same fair housing powers as HUD, HUD will refer your complaint to that agency for investigation and notify you of the referral.
- The alleged respondent (person named for alleged discrimination in complaint) will be notified of the complaint filed and provided with a copy of the complaint. The respondent must submit an answer to HUD’s complaint.

* If you file a complaint with the PHRC and your allegations are covered under Federal laws enforced by the U.S. Department of Housing and Urban Development (HUD), the PHRC will file your complaint with HUD as well. Only one agency will conduct the investigation. Federal law may afford you additional rights and remedies, which this dual-filing process protects.

Investigation:

HUD will interview the complainant, the respondent and any other witnesses as well as collect all relevant documents and conduct interviews and site visits, if necessary.

Conciliation:

HUD will try to reach an agreement with the respondent on the Fair Housing issue. A conciliation agreement must protect both you and the public interest. If an agreement is signed, HUD will take no further action on your complaint. However, if HUD has reasonable cause to believe that a conciliation agreement is breached, HUD will recommend that the Attorney General file suit. If, after conciliation, the complaint is not resolved, the investigation will continue.

Cause/No Cause Determination:

If HUD finds “no reasonable cause” that housing discrimination has occurred, HUD will issue a "no reasonable cause" statement and the case will be closed. If the complainant is unsatisfied with HUD’s decision, they can request a “reconsideration” of the case, triggering a renewal of the investigation.

If HUD finds reasonable cause to believe that discrimination occurred, the case will be heard in an administrative hearing within 120 days, unless either party prefers that the case to be heard in Federal District Court. Either way, there is no cost the complainant.

Administrative Hearing:

HUD attorneys will litigate the case on your behalf, unless you prefer to be represented by your own attorney. If the Administrative Law Judge (“ALJ”) decides that discrimination occurred, the respondent can be ordered:

- To compensate you for actual damages, including humiliation, pain and suffering.
- To provide injunctive or other equitable relief, such as making housing available to you.
- To pay the Federal Government a civil penalty to vindicate the public interest. Maximum penalties are \$10,000 for a first violation and \$50,000 for a third violation within seven years of the original violation.
- To pay reasonable attorney's fees and costs.

Federal District Court:

If you or the respondent decide to have your case heard in Federal District Court, the Attorney General will file a suit and litigate it on your behalf. Like the ALJ, the District Court can order relief, and award actual damages, attorney's fees and costs. In addition, the court can award punitive damages.

What If You Need Help Quickly?

If you need immediate help to stop a serious problem that is being caused by a Fair Housing Act violation, HUD might be able to assist you as soon as you file a complaint. HUD may authorize the Attorney General to go to court to seek temporary or preliminary relief, pending the outcome of the complaint, if:
-Irreparable harm is likely to occur without HUD's intervention
-There is substantial evidence that a violation of the Fair Housing Act has occurred.

For further information, examples of case studies, and sample letters as well as a list of recourses used to make this publication, please go to:

www.sdhp.org



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