FAIR HOUSING FOR RESIDENTS WITH DISABILITIES

GUIDE TO REQUESTING REASONABLE ACCOMMODATIONS AND MODIFICATIONS

Please note - the information provided in this packet is not intended to serve as legal advice or opinions. The contents of this packet are intended to convey general information only. It is not an invitation to establish an attorney-client relationship nor should it be relied upon without first seeking legal advice from a licensed attorney.

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A: 131 Avocado Avenue, El Cajon, CA 92020   P: 619.444.5700   F: 619.447.5761   W: www.c4sa.org
Fair Housing for People with Disabilities – What Landlords and Tenants Need to Know

By Maria Ochoa – Dispute Resolution and Fair Housing Mediator, North County Lifeline

Most landlords agree that receiving a disability discrimination complaint is cause for alarm and an urgent call to their attorney. In fact, disability discrimination is one of the most common fair housing complaints. But understanding the basic rules for accommodating tenants with disabilities helps landlords and tenants work together and avoid the need for intervention.

First, it’s important to understand what disabilities are protected.

Federal housing laws define a person with a disability as “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 impairment.” California law expands on this definition to include medical conditions not specifically addressed in Federal rules. This means that landlords need to consider issues beyond those that restrict mobility and require the use of a wheelchair or walking aid. Accommodations must also be made for conditions such as hearing impairment, substance abuse recovery, mental disorders, asthma, pregnancy, and more.

47% of housing discrimination claims handled by CSA in the last 3 months of 2015 were related to a disability.

What is a reasonable accommodation?

While landlords are accustomed to accommodating tenants with mobility issues, it’s more difficult to define reasonable accommodations for other medical conditions. In 2004, the Department of Housing and Urban Development and the Department of Justice defined a reasonable accommodation as a “change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.”

This means that reasonable accommodation might include allowing an interpreter to negotiate a lease for a hearing impaired applicant, replacing the carpet in a unit for an
asthma patient, or assigning preferential parking to a tenant recovering from a medical procedure. It might also include working with a tenant who has violated a lease agreement because of a mental health condition instead of starting eviction procedures.

**So how do landlords and tenants agree on reasonable accommodations?**

It is the responsibility of tenants with disabilities or medical conditions to communicate their needs to the landlord. Housing providers are only obligated to provide reasonable accommodation when requested. If a tenant’s disability is evident, no further verification is needed. However, the landlord may request written verification of disabilities that are less apparent. It is essential that a landlord give consideration to every accommodation request to determine if the needs of the tenant can be met.

Generally, every landlord should adopt a written policy to guide the process and avoid discrimination claims. It is important to note that when discrimination claims are reviewed, lawmakers do not require proof of discriminatory intent, but only that discrimination occurred, to start the investigation process.

**Where can landlords and tenants go for help?**

Fair Housing claims are accepted by the Federal Housing and Urban Development Department, the California Department of Fair Employment & Housing, and, in San Diego County, by local agencies like CSA San Diego County.

CSA San Diego County offers free mediation as a way to resolve claims on a no-fault basis. CSA also provides training to landlords and property managers to promote an understanding of Fair Housing rules and reduce inadvertent cases of discrimination.

If you need help with a Fair Housing claim, or would like to schedule free training, please contact CSA San Diego County’s Fair Housing Program toll-free at 800.954.0441 or email info@c4sa.org.

CSA San Diego County’s Fair Housing Program is a free service offered to landlords and tenants in San Diego County and funded by the County of San Diego.
Do I Need a Reasonable Accommodation or a Reasonable Modification? 
- Understand the difference between the two types of requests

Reasonable Accommodation
Under both state and federal fair housing laws, housing providers must make reasonable accommodations in their rules, policies, practices or services, when such accommodations may be necessary to afford a handicapped/disabled person equal opportunity to use and enjoy the dwelling.

According to the U.S. Department of Housing and Urban Development, the refusal to make reasonable accommodations in the methods described above is a type of disability discrimination prohibited under the Fair Housing Act.

Examples of reasonable accommodations include:
- Allowing for a service animal or emotional support animal in the dwelling
- Providing an accessible parking space near the unit for a disabled individual
- Transferring an individual to an available ground floor unit of a multi-story apartment complex because they are not able to climb the stairs.
- Providing a copy of the lease agreement in a large size font in order to assist those with a visual impairment

Reasonable Modifications
Reasonable modifications are typically requests for alterations or structural changes made to existing physical premises to allow a handicapped/disabled person equal opportunity to use and enjoy the residence. These modifications generally allow a person with a disability to overcome specific obstacles that are hindering their use and enjoyment of the dwelling.

Examples of reasonable modifications include:
- Installing bars in the bathroom to make use of the shower and toilet manageable.
- Lowering kitchen cabinets to a height suitable for a person using a wheelchair.
- Installing ramps in areas not easily accessible by a person using a wheelchair.

Payments for Reasonable Modifications
Unlike reasonable accommodations, modification require physical alterations to the unit. Depending on the type of housing, the tenant may be responsible for the costs of these alterations. If the alterations negatively affect the use of unit for the next tenant moving in, the individual requesting the modification may be required to pay to restore the unit to its original condition. The restoration must be reasonable and if it does not keep the next tenant from enjoying the unit, the tenant should not be responsible for restoration. The tenant is not required to pay for unreasonable costs.

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responsible for expenses for modifications outside of the dwelling; such as ramps installed in
the common areas of the apartment complex. It is important to reach an agreement in writing
with your landlord before the modifications are made, so you know what you will be
responsible for.

**Do I pick just one? Do I need to have an accommodation or modification?**

No.

There is no limit on the number of accommodations or modifications that can be requested.
There is no limit to the number of times a tenant may make these requests. In addition, the
landlord may not impose an accommodation or modification on a tenant who does not want
one.
I Need a Reasonable Accommodation and/or Reasonable Modification Due to my Disability… How Do I Request This?
An individual that qualifies as a person with a disability under the Fair Housing Act must expressly request for the reasonable accommodation and/or reasonable modification they require. The housing provider is not expected to know of your needs.

Some properties will have a standard form available to residents to make such requests. While there are no specific rules on how to make these requests, we always recommend making the request in writing. Two ways an individual can make a request in writing is by drafting a letter or using the fill-in forms provided in this packet.

Drafting a Letter
When requesting a reasonable accommodation and/or modification via a written letter, the individual should state: 1) that they have a disability and 2) the request. The individual does not have to share any details in regards to the diagnosis of the disability or any medical information. Even if the housing provider asks, the individual does not need to share any of this information. Remember to ask for a response in writing.

We also suggest including a letter of verification from the health care provider confirming that the individual does qualify as a person with a disability under the Fair Housing Act and due to the disability, there is a need for the reasonable accommodation and/or modification requested.

Using the Attached Forms
There are three forms provided in this packet that will aide in requesting the reasonable accommodation and/or modification the individual requires.

1) The first form is for the individual with the request to complete and provide to the housing provider.
2) The second form is for the health care provider to verify the need for the request. If the health care provider would rather draft a letter, that can be used in place of the form.
3) The third form is for the housing provider to complete informing you of whether the request was granted or denied. They may choose to write their own letter in place of the form.

We recommend presenting the housing provider all three forms at once. Make sure the first two are completed by the individual and the health care provider and the third is left blank for the housing provider to complete and return.

You are always welcome to reach out to CSA San Diego for further assistance in making your request.
REQUEST FOR:

☐ REASONABLE ACCOMMODATION
☐ REASONABLE MODIFICATION

FROM: ___________________________________________ (name)
__________________________ (address)

TO: ___________________________________________ (name)
__________________________ (address)

The following member(s) of my household has a disability:

- **Definition of Disability:** Federal laws define a person with a disability as “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.” – U.S. Department of Housing and Urban Development, [www.hud.gov](http://www.hud.gov)

As a result of the disability, the above listed person is requesting the following change(s) be made in your rules, policies, practices, or services, in order to be afforded equal opportunity to use and enjoy this dwelling and common areas available to all tenants by the Federal Fair Housing Act. 42 U.S.C. §3604(f)(3)(A) and (B):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

☐ I have attached verification of my status as an individual with a disability and confirmation of the need for my request from my health provider.

This form shall not be used to invite discussion regarding individual’s specific diagnosis or any other information not directly relevant to the request for reasonable accommodation and/or modification. Please respond to my request in writing within seven (7) business days.

Thank you,

__________________________ (signature)  __________________________________ (date)

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VERIFICATION OF DISABILITY

The Fair Housing Act prohibits discrimination on the basis of handicap. "Handicap" has the same legal meaning as the term "disability" which is used in other federal civil rights laws. Persons with disabilities (handicaps) are individuals with mental or physical impairments which substantially limit one or more major life activities. The term mental or physical impairment may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. The Fair Housing Act also protects persons who have a record of such an impairment, or are regarded as having such an impairment. – Joint Statement of the Department of Justice and The Department of Housing and Urban Development, updated August 6, 2015. www.justice.gov

Name of Health Care Provider: __________________________________________

Address/Phone: ______________________________________________________

Health Provider for: ______________________________ (name)
______________________________ (address)

As an individual with the knowledge necessary to make a determination, I certify __________________ (name of client) qualifies as an individual with a disability as defined by the Fair Housing Act, Amended in 1988. 42 U.S.C. §3602(h). The following accommodation and/or modification is consistent with the needs associated with the identified disability:

(accommodation/modification):
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Thank you,

_____________________ (signature)  ________________ (date)

_____________________ (title)
I am filling out this form in response to your request on ___________ (date) for the following reasonable accommodation and/or modification:

_____________________________________________________

Based on the information you provided us, we have made the following decision:

☐ Approved your request. We will provide the following accommodation and/or modification:

➢ Effective:
  ☐ Immediately
  ☐ Specific Date: _______________
  ☐ Anticipated Date: _______________

☐ Not approved your request, but instead offer the following:

➢ For the following reason(s):

_____________________________________________________

_____________________________________________________

☐ Denied your request for the following reasons (check all that apply):
  ☐ You have not established that you meet the definition of an individual with a disability and we are not required to provide you with a reasonable accommodation and/or modification.
We find your request not to be reasonable because you do not need this accommodation and/or modification in order to have equal access to or full enjoyment of this housing.

This request will cause an undue financial and/or administrative burden on our property. Explain:

________________________________________________________________________
________________________________________________________________________

We used the following reasons and facts in our determination to deny your request:
________________________________________________________________________
________________________________________________________________________

In making our decision to deny your request, we consulted with the following people, reviewed the listed documents or records, and/or performed the following investigations:
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Have not yet made a decision whether to grant your request. We would like to schedule a meeting with CSA San Diego to obtain fair housing information and/or mediation with the above listed tenant to better understand our obligations as a housing provider while following all federal and state specific fair housing laws. I will call CSA San Diego at (619) 444-5700 to schedule this meeting no later than ten (10) business days from the date we have received your request for reasonable accommodation and/or modification, which is ________________ (date).

If you disagree or would like to contest any of the above listed information, you may contact, ________________________________ (name, title), at:

Phone Number: __________________________________________
Address: ________________________________________________

_________________________  ____________________________
Signature                  Date
OUR MISSION

CSA San Diego County is a non-profit organization dedicated to eradicating fair housing discrimination by enforcing the Affirmatively Furthering Fair Housing regulation.

We offer fair housing counseling and dispute mediation, education fair housing seminars for tenants and landlords (English, Spanish, and Arabic), services to tenants, landlords, and apartment managers, real estate and rental practice discrimination audits, and free rental housing handbooks (English, Spanish, and Arabic).

CSA San Diego County is a 501(c)(3) non-profit corporation. We have decades of experience as advocates for fair housing and in mediating tenant/landlord issues, and we continue to do so today. Other issues CSA addresses include: hate crime prevention, civil rights of first generation immigrants, human trafficking, youth education, and voter education.

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