
Reasonable Accommodation Requests and Eviction

Reasonable accommodation requests can sometimes be used to stop an eviction. This would be the case when the basis for the eviction is connected in some way to a disability. For example: an eviction because a wheelchair caused damage due to narrow hallways; an eviction for aggressive or disturbing behavior where the tenant has a mental illness; or an eviction for noise complaints due to loud television where the tenant is hearing impaired. Under the Act, a landlord cannot necessarily evict a tenant with a disability if based on behavior or characteristics related to the disability. If the tenant proposes an accommodation that would eliminate or reduce the impact of the lease violation, the landlord must make such accommodations where they would not be unduly burdensome.

If you receive an eviction notice connected to your disability, you should immediately contact an attorney or fair housing organization for further assistance. They can help you draft a reasonable accommodation request to address the housing provider's concern. For example, a tenant who has a hearing impairment and has received a lease violation for noise could submit a reasonable accommodation request to allow him time to "cure" the lease violation by acquiring headphones for his television. Or, a tenant who is being evicted for aggressive behavior related to mental illness could submit a reasonable accommodation request to allow her more time to "cure" the violation by getting the assistance of a case worker to help her manage her mental illness. There are many creative ways reasonable accommodation requests could be used to cease eviction proceedings and preserve your tenancy.

To learn more about fair housing:

Idaho Legal Aid Services Inc.

Fair Housing Hotline
1-866-345-0106 (toll-free)
TTY 1-800-245-7573

A set of interactive Reasonable Accommodation request forms are available at Idaho Legal Aid's website at www.idaholegalaid.org.

To file a fair housing complaint:

U.S. Department of Housing and Urban
Development (HUD)
1-800-669-9777 or 1-800-927-9275 (TDD)

Intermountain Fair Housing Council
(208) 383-0695 in Boise or
1-800-717-0695 (toll free)



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Idaho Legal Aid Services, Inc.

Reasonable Accommodation Requests

Introduction

The Federal Fair Housing Act ("Act") (42 U.S.C. §§ 3601-19) prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability (as well as sexual orientation/gender identity if the housing provider or program receives federal funding. A housing provider's refusal to make a reasonable accommodation that is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling constitutes disability discrimination and is a violation of the Act.

What is a Reasonable Accommodation?

A reasonable accommodation is some exception or change that a housing provider makes to its rules, policies, services, or regulations that will assist a resident or applicant with a disability in making full use of a housing program or dwelling. The requested accommodation must be necessary for the person with the disability to enjoy their dwelling unit or to fully use services offered to other residents. Examples of reasonable accommodations would include: permitting an assistive animal in a "no pet" property; permitting a live-in personal care attendant to reside with a resident with a disability; use of increased font size on notices from the landlord; or allowing priority assignment to a first floor apartment for a requester with limited mobility.

How is a Reasonable Modification Different from an Accommodation?

A reasonable modification is an alteration to the physical premises allowing a person with a disability to overcome obstacles that interfere with his or her use of the dwelling and/or common areas. Examples of reasonable modifications would include: installation of a ramp for wheelchair accessibility; replacing round turn knobs with lever push knobs on doors; or installing grab bars in the bathroom. The housing provider cannot deny a reasonable modification request. However, the individual making the request may be responsible for the costs incurred in providing the reasonable modification to the premises. The requester may also be responsible for costs incurred in restoring the unit to original condition. Housing providers may be responsible for these costs if federal funds are received.

How is Disability Defined?

For purposes of the Fair Housing Act, a person is considered disabled if he/she 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. Most serious medically treated conditions are considered to be a disability.

Covered Housing

The Fair Housing Act covers most housing programs and most types of housing, including, but not limited to: homes, apartments, condos, nursing homes, manufactured homes, shelters, manufactured home communities, RV parks and other structures occupied as residences.

Reasonable Accommodation Tips

- Make your request in writing and send by certified mail.
- State that you have a disability and explain how the accommodation would assist you.
- Include a note from your qualified professional confirming that you meet the Act's definition of "handicapped" and an explanation of the connection between your disability and the need for an accommodation.
- You do NOT have to disclose specific details about your disability, such as the nature or severity of your disability. Your housing provider cannot request details about your disability from you or your qualified professional.
- A housing provider may verify need in cases in which the disability is not obvious by requesting a proof of need letter from a qualified provider. If the housing provider has their own proof of need letter or form, this should be given to the R.A. requester. The housing provider should NOT contact the qualified professional directly.

Denial of Request

Housing providers must grant all requests for reasonable accommodations and/or modifications that are needed as a result of a disability if the request is not unduly burdensome or a fundamental alteration of the housing program. If a request is denied, you have the right to know the reasons in writing and the right to meet with the housing provider as part of the "interactive process."

The interactive process involves the applicant and housing provider working together and engaging in a dialogue in order to come up with a solution that meets both the needs of the applicant and the needs of the housing provider. The purpose of the interactive process is to find creative solu-

tions that allow persons with disabilities equal use and enjoyment of their home, even where the accommodation originally requested is not workable.

Denial of a reasonable accommodation request without engaging in the interactive process could constitute a Fair Housing Act violation and discrimination based on disability. If a housing provider has denied your reasonable accommodation request and refuses to meet with you to discuss alternative accommodations, you should consider contacting the Fair Housing Legal Advice Line at 1-866-345-0106 or filing a fair housing complaint with the U.S. Dept. of Housing & Urban Development (HUD) or with Intermountain Fair Housing Council.

Sample Request

Dear _____:

As a person with a disability, I am hereby requesting a reasonable accommodation for [your address], pursuant to the Fair Housing Act, 42 U.S.C. § 3604, which requires housing providers to make "reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling."

The accommodation I am requesting is: [describe accommodation]. I need this accommodation because, due to my disability, [describe your need for the accommodation and how it relates to your disability. You do not need to disclose the nature of your disability].

Please respond to this request in writing within seven (7) days.

Sincerely,
