What is a "reasonable accommodation" for purposes of the federal Fair Housing Act?

A “reasonable accommodation” is 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. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling.

The Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual’s disability.

Example 1: A housing provider has a policy of providing unassigned parking spaces to residents. A resident with a mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a reasonable accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first come, first served basis. The provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.

Example 2: A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable accommodation. The provider must make an exception to its payment policy to accommodate this tenant.

Example 3: A housing provider has a "no pets" policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a reasonable accommodation. The tenant explains that the dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. The housing provider must make an exception to its “no pets” policy to accommodate this tenant.
Source: Examples no. 1 – 3, Joint Statement of the Department of Housing and Urban Development and the Department of Justice, May 17, 2004

Example 4: If the disability of the individual requesting an accommodation is apparent or known by the person considering the request, and it is also readily apparent or known how the requested accommodation is necessary to afford the individual with a disability equal opportunity to use and enjoy a dwelling or housing opportunity, then the person considering the request may not request any additional information about the requestor’s disability or the disability-related need for the accommodation. Known means that the person considering the request is personally aware of the disability or the need for the accommodation. Apparent means that either the disability or the need for the accommodation is obvious, although the person considering it did not know about it before the request was made. For example, if a tenant with quadriplegia who uses a power wheelchair goes in person to the off-site management office for their apartment building and requests an accommodation in the form of moving to a first-floor apartment, and the management office knows that the apartment building does not have a functional elevator, the management office may not request further information about the disability before evaluating the request for an accommodation.


INTERACTIVE PROCESS

If an owner denies a reasonable accommodation request:
1. The family may contact their Section 8 Advisor (“Advisor”) for help with an owner who refuses to allow any modification at all.
2. The Advisor or Ombudsperson will encourage the owner to refer to the Fair Housing brochure included in his owner’s packet and/or to contact his or her personal attorney or a Fair Housing organization for further guidance.
3. If the owner still refuses to allow the accommodation, the Advisor or Ombudsperson will provide the family information on how to file a housing discrimination complaint and/or refer the participant to HUD or a Fair Housing agency to make a complaint.

FAIR HOUSING LAWS

The Fair Employment Housing Act protects tenants from illegal discrimination and harassment in housing based on a mental or physical disability. Discrimination includes, but is not limited to, the following actions:

1. Refusal to rent, lease, or sell housing accommodations.
2. Refusal to negotiate for the sale, rental, or lease of housing accommodations.
3. Representation that a housing accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact available.
4. Provision of inferior terms, conditions, privileges, facilities, or services in connection with the housing accommodations.
5. Cancellation or termination of a sale or rental agreement.
6. Failure to design and construct multi-family dwellings in a manner that allows access to and use of persons with disabilities.
7. Provision of segregated or separated housing accommodations.
8. Refusal to permit, at the expense of the person with disabilities, reasonable modifications of existing premises occupied or to be occupied by the person with disabilities, when the modifications may be necessary to afford the person with disabilities full enjoyment of the premises.
HACLA OPERATIONS DURING COVID-19

Effective March 12, 2020, the HACLA offices closed to walk-in traffic until further notice to protect our clients and staff. We will be conducting all business by email, phone or mail, including annual reexaminations. If you need to submit documents, please email or mail them. Drop boxes are also available at all offices.

In response to the COVID-19 Emergency, HACLA adjusted program operations, as approved by The United States Department of Housing Urban Development (HUD), where necessary to continue program operations while preventing the spread of COVID-19 and mitigating the risks posed to HACLA staff, applicant/participant families, and landlords.

HACLA has adopted the following temporary adjustments to program operations that could potentially affect you:

**Inspections: Initial and Complaint**

The waiver for Housing Quality Standards (HQS) Self-Certification will be available until December 31, 2021 for all assisted units where Housing Assistance Payment (HAP) contract was executed using HQS Self-Certification. The Housing Authority must conduct an HQS inspection as soon as reasonably possible but no later than June 30, 2022. The Housing Authority is not required to conduct an on-site complaint inspection to verify the repairs have been made.

The waiver for HQS Self-Certification will be available until December 31, 2021.

**Inspections: Annual/Biennial**

HUD is waiving the requirement to conduct biennial inspections and is providing an alternative requirement to conduct biennial inspections. The alternative requirement allows the Housing Authority to rely on the owner’s self-certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units in question instead of conducting an initial inspection.

For biennial inspection, the Housing Authority first will attempt to conduct a Remote Video Inspection.

The Housing Authority will resume biennial inspections by December 31, 2021.

**Voucher Term**

HUD is allowing the Housing Authority to approve voucher extensions. The voucher term for applicant/participant families will expire at the end of 270 cumulative calendar days. HACLA may provide a single 90-day extension after the end of 270 cumulative calendar days.

The waiver for voucher extensions will be available until December 31, 2021.
Absence from Unit
The participant family may be absent from the assisted unit for more than 180 consecutive days. The Housing Authority can continue making HAP and the HAP contract will not terminate due to extenuating circumstances (e.g., hospitalization, extended stays at nursing homes, caring for family members). The waiver for absence from unit ends December 31, 2021.

SOURCE OF INCOME: SECTION 8 PROTECTIONS

With the adoption of Senate Bill 329 (SB 329), landlords may not discriminate based on a tenant’s source of income in California. Specifically, landlords may no longer refuse to enter into or renew a lease solely based on the tenant’s possession of a Housing Choice Voucher (HCV) (See Gov. Code § 12955.) This statute applies to tenants that wish to contract-in-place with their existing landlord. As such, a HCV participant that would like to contract in place cannot be treated differently simply because he or she now has a HCV. HACLA, in reviewing a Request for Tenancy Approval (RFTA), will not approve a lease agreement that increases the rent beyond what it would otherwise be if the tenant did not have a HCV. Note that failure to comply with SB 329 may result in a Department of Fair Employment and Housing complaint or civil litigation.

Landlords must contract with HACLA if they have an existing tenant that receives a HCV and the unit meets HCV program requirements. In order to comply with HCV program requirements, landlords and tenants will need to amend their existing lease agreement or adopt a new lease agreement to comply with the Department of Housing and Urban Development (HUD) mandated provisions. This includes executing the HUD prescribed tenancy addendum and a lead-based paint disclosure, and ensuring compliance with Housing Quality Standards. (See 24 C.F.R. 982.305(b)(1)(i)-(ii).)

If your property is subject to the City’s Rent Stabilization Ordinance (RSO) enforced by the Los Angeles Housing + Community Investment Department (HCIDLA), any change in the terms of the tenancy must be in accordance with the RSO. Please contact HCIDLA at 866-557-7368 for more information.

LANDLORD SEMINARS

The Housing Authority is conducting online landlord seminars. Available seminars are provided online at: https://www.hacla.org/ownerorientation. GoToMeeting is the application used for the online seminars. This is a free application. If you are new to GoToMeeting you can get the application now and be ready when your first meeting starts: https://global.gotomeeting.com/install/754203077

You can access the seminars from your computer, tablet, or smartphone simply by clicking on the date or on the link provided. You can also dial in using your phone, or join from a video-conferencing room or system.

IN THE NEXT ISSUE

Remote Video Inspection (RVI) An RVI is an alternative to an on-site regular Housing Quality Standards inspection and is performed remotely with the Housing Authority Inspector directing the inspection from the office with the tenant serving as the proxy inspector. The proxy inspector must be 18 years old or with an adult to perform the RVI. The Housing Authority is able to visually inspect the unit using technology such as video streaming.

If you suspect anyone of committing fraud, you can call (800) 461-9330 or file a report online at: www.convercent.com/report. Your name will remain anonymous.

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