

North Carolina Housing Finance Agency

Reasonable Accommodation – A Quick Guide of Property Managers

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The federal and state laws that forbid housing discrimination require property managers and landlords to make reasonable changes or “accommodations” in rules, policies, practices or services when the accommodation is necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling unit or common area.

Providing a reasonable accommodation to a person with a disability does not violate any existing non-discrimination policies or laws and is not only allowed, but mandated by law, depending on the specific facts. The Fair Housing Act also does not allow for exclusion of applicants based on fear, speculation, or stereotypes about a particular disability or persons with disabilities in general.

This Guide explains what a “reasonable accommodation” is and when a landlord or property manager may be required to provide such an accommodation.

What is a reasonable accommodation?

A “reasonable accommodation” is a change in rules, policies or practices or a change in the way services are provided. With a few exceptions, the Fair Housing Act (FHA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (ADA) require landlords to grant reasonable accommodations in order to enable a person with a disability to have an equal opportunity to use and enjoy a dwelling unit or any of a development’s public areas.

Applicants and tenants can ask for a change in any rule, policy or procedure, as long as the need for a change is linked to a disability. For example, in screening applicants, managers may disregard a past credit problem or criminal history that resulted from an applicant’s disability.

Modifying the rules does not mean that the tenant can continue to violate the lease. It means that the tenant can receive help in following the lease or perhaps can follow it in a different way. For example, a tenant whose disability makes it difficult to pay rent in person might be permitted to mail the rent. The tenant would not be entitled to a waiver of rent, however. Reasonable accommodations should be requested and made on an individual basis, depending on the tenant’s disability and his/her particular needs and circumstances.

Is a landlord always required to grant a request for a reasonable accommodation?

No. Accommodations are considered “reasonable” when they are practical and feasible. Courts have interpreted this to mean that a landlord does not have to grant a request for an accommodation if it would impose an “undue burden” on the landlord or result in a “fundamental alteration” of the landlord’s provision of housing. An undue burden is an unreasonable financial or administrative cost.

A fundamental alteration is an accommodation that would change the basic operation or nature of services provided—in this case, housing. For example, the FHA would probably not require a landlord to provide wheelchair accessible transportation to a local shopping mall for a tenant with a mobility impairment unless the provider already provides residents with non-accessible transportation; or take care of a pet for a tenant with a mental illness who cannot care for the pet himself.

Who is responsible for the costs of an accommodation or modification?

Once an accommodation is determined to be reasonable, a landlord cannot impose the expense of providing it on to the tenant, directly or indirectly. The landlord must assume these costs for reasonable accommodations. These rules regarding accommodations differ from those covering “reasonable modifications” (generally structural modifications to a property such as adding a grab bar or ramp). In general, private landlords do not have to pay the cost of reasonable modifications to a tenant’s unit or outside common areas requested by the tenant as necessary to address the tenant’s disability. However, a property financed with federal funds, such as HOME, may not charge the tenant for the costs of reasonable modifications.

When does the requirement apply?

A tenant or prospective tenant may request a reasonable accommodation at any time, including at the time of application, at the time of lease signing, or after the tenant has already moved in to their unit. Common screening criteria such as credit and criminal record check policies must be evaluated and modified if a prospective tenant with a disability requests a reasonable accommodation and the facts and circumstances warrant it. For example, where a tenant has no recent rental history because she had previously been in a psychiatric hospital, she could request that a reference letter from her employer or social worker be considered instead of a reference from a previous landlord.

This Guide provides general information. For legal advice, please consult an attorney.

Examples of reasonable accommodations:

- Accepting a reference by the applicant's employer, social worker, or their past positive rental history, instead of conducting a standard credit check, when the tenant has bad credit history that is directly linked to their disability (i.e. time in a hospital, loss of job due to disability, inability to pay down high amounts of medical debt incurred as a result of their disability, etc.).
- Delaying eviction proceedings to allow a tenant to obtain mental health treatment and counseling to change her behavior where her disability resulted in lease violations such as disturbing other tenants or causing minor damage to the property. (The tenant would still be liable for paying to repair the damage.)
- Making an exception to a first-come, first-served, parking policy by creating a reserved parking space for a tenant who, because of her/his disability, has difficulty walking and needs to park close to the building.
- Waiving "guest fees" and parking fees for a disabled tenant's home health care aide.
- Assisting an applicant with an intellectual or developmental disability in filling out the standard application form.
- Agreeing to call or visit a tenant if she/he needs oral reminders to pay the rent each month.
- Permitting a tenant with a mobility impairment to move from a third-floor unit to the first floor.
- Making an exception to the building's "no pets" rule for people with disabilities who use guide dogs or other service or emotional support animals.
- Allowing a tenant to move to a different apartment to get away from conditions (e.g., loud noise) that amplify the effects of her/his disability.
- Permitting a tenant to move from a one-bedroom to a two-bedroom apartment to have room for her/his live-in care provider.

A model reasonable accommodation notice and request and response forms are attached. For more information see <http://www.nchfa.com/Rental/Mreasonableaccommod.aspx>

Attached: **Sample Notice of Right to Reasonable Accommodation and Sample Request and Response Forms**

The North Carolina Housing Finance Agency wishes to acknowledge the Bazelon Center for Mental Health Law, Fair Housing Project of Legal Aid of NC and NC Justice Center for their contributions to the development of this Guide.

Sample Notice of Right to Reasonable Accommodation

If you have a disability and any of the following kinds of changes would help you live here, use the facilities, or take part in programs on-site, you can ask for these kinds of changes, which are called reasonable accommodation:

- a change in the rules or the way we do things
- repair or modification in your apartment, or a special type of apartment
- a change or repair to some other part of the buildings or grounds
- a change in the way we communicate with you or give you information.

If you can show that you have a disability, and if your request is reasonable, not too expensive or too difficult to arrange, we will try to make the changes you request.

We will give you an answer in _____ days, unless there is a problem getting the information we need or unless you agree to a longer time. We will let you know if we need more information or verification from you or if we would like to talk with you about other ways to meet your needs.

If we turn down your request, we will explain the reasons. You can give us more information if you think that will help.

If you need help filling out the Reasonable Accommodation Request Form, or if you want to give us your request in some other way, we will help you do so.

You can get a Reasonable Accommodation Request Form in the management office

This notice can be given to applicants and tenants and/or posted in the management office

Sample Request and Response Forms

Sample 1: Reasonable Accommodation Request Form for Tenants

I have a disability. I believe that the problems causing you to reject my application for housing or to send me a lease violation notice or eviction notice are related to my disability.

- 1) This is why I think the problem happened as a result of my disability:
- 2) I think the problem is not likely to happen again because:

The things described below have changed in my life.
Or

A reasonable accommodation would solve the problem.
The accommodation I request is:

- 3) You can verify that the problem for which I would be rejected or evicted from housing was as a result of my disability by contacting:

Name
Phone
Address

- 4) You can verify the reasons that I think the problem is not likely to happen again and that I will be likely to continue doing what I need to do to avoid these problems by contacting:

Name
Phone
Address

- 5) You can verify that the reasonable accommodation I am requesting is necessary and likely to solve the problem by contacting:

Name
Phone
Address

[Signature]

[Date]

Sample 2: Reasonable Accommodation Request for Current Tenant

Date _____

Building Manager's Name Address _____

Dear _____,

I live in Apartment No. _____ at _____. I have a disability that prevents me from _____. I am therefore requesting a reasonable accommodation. I have attached verification from _____ of my disability and the functional limitations I experience as well as the accommodation(s) I need in order to compensate for my disability. I am asking for this accommodation so that I can have full use and enjoyment of my home.

Please reply to my request in writing within the next ten (10) business days. If you have any questions about my request, please do not hesitate to contact me. I look forward to your response and appreciate your attention to this matter.

Sincerely, [signature]

Sample 3: Assorted Response Letters from Landlords

Response No. 1 (requesting confirmation letter from service providers)

Date _____

Dear _____,

We have received your request for a reasonable accommodation, specifically: _____

_____.

Please provide us with a letter from your service providers confirming your disability status and need for the accommodation. Once we receive that letter, we will give prompt consideration to your request.

Sincerely, [signature]

Response No. 2 (outlining accommodation to be made)

Date _____

Dear _____,

We have received your request for a reasonable accommodation, specifically: _____

_____.

together with your health care provider's letter documenting your disability and need for the accommodation.

We will provide the accommodation as follows: _____

_____.

Sincerely, [signature]

Response No.3 (asking for clarification of accommodation request)

Date

Dear _____,

We have received your request for a reasonable accommodation. However, we are unclear about your specific needs and would like to meet with you to discuss the accommodation request.

Please contact me as soon as possible so that we can discuss what will best meet your needs. Sincerely,

[signature]

Response No. 4 (outlining reasons for denial of accommodation)

Date

Dear _____,

We have received your request for an accommodation for your disability, specifically:

_____. We have given your request reasonable consideration and have decided to deny your request for the following reason(s):

_____.

Under federal and state fair housing laws, we are not required to grant such requests as we consider unreasonable. If you feel our determination is incorrect, or if you have suggestions for an alternative accommodation, please do not hesitate to contact me.

Sincerely, [signature]