

CHAPTER 24 REASONABLE ACCOMMODATION POLICY AND PROCEDURES

A. FAIR HOUSING POLICY

It is the policy of the Public Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing fair housing and equal opportunity in housing and employment.

The PHA shall not deny any family or individual the opportunity to apply for or receive assistance under the Housing Choice Voucher programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, disability, sexual orientation, or gender identity.

To affirmatively further Fair Housing, the PHA has a commitment to full compliance with applicable civil rights laws. The PHA will provide Federal/State/local information to voucher holders regarding discrimination and any recourse available to them should they become victims of discrimination. Such information will be made available during the family briefing session and placed in their briefing packet. It will include information for applicants on how to file a fair housing complaint, including the provision of the toll-free number for the Fair Housing Complaint Hotline, 1-800-669-9777, and the Federal Information Relay Service at 1-800- 887-8339.

Except as otherwise provided in 24 CFR Parts 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be: denied the benefits of, excluded from participation in, or otherwise be subjected to discrimination because the PHA's facilities are inaccessible to or unusable by persons with disabilities.

Posters and housing information are displayed in locations throughout the PHA's offices in such a manner as to be easily readable from a wheelchair.

The office of the Housing Choice Voucher & Application Division is accessible to persons with disabilities. Accessibility for the hearing impaired is provided via 711, a free relay service.

The PHA will provide and review information regarding fair housing rights and responsibilities during family briefing sessions.

B. REASONABLE ACCOMMODATION POLICY

This policy is applicable to all situations described in this Administrative Plan, including but not limited to when a family initiates contact with the PHA, when the PHA initiates contact with a family, including when a family applies, during residency and when the PHA schedules or reschedules appointments.

An applicant or a participant with a disability must first request an accommodation before the PHA will deviate from standard practice. Most requests will be reviewed by a Reasonable Accommodation Committee.

The PHA's policies and practices are intended to afford persons with disabilities equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement, as those who do not have disabilities and is applicable to all situations described in this Administrative Plan. To request a reasonable accommodation due to a disability, an applicant or participant must qualify under the following Americans with Disabilities Act (ADA) definition of disability:

- Have a physical or mental impairment that limits one or more of the major life activities of an individual;
- Have a record of such impairment; or
- Be regarded as having such impairment.

The PHA will fully comply with the obligations found in HUD Notices PIH 2010-26(HA) and PIH 2006-13 (HA) [Non-Discrimination and Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the American with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988].

The term “individual with disabilities” is referenced in 24 CFR Part 9.103(2).

Methods Used to Certify a Person with a Disability and the Need for a Reasonable Accommodation

To verify that an applicant or participant is a person with a disability, PHA staff will first check to see whether the applicant or participant is under the age 62 and receives either Social Security or SSI disability income or other disability-based income.

Some applicants or participants may be persons with disabilities even though they do not have such income. In these cases, a verification form will be sent to a qualified professional having knowledge of the person’s disability who can verify the person’s status.

The PHA staff will work with the individual to determine the least intrusive or restrictive means for certifying a disability.

Once the individual’s disabled status is established, a professional third-party, competent to make an assessment, must provide written verification that the specific accommodation requested is due to the disability and the specific change is required for equal access to the housing program.

In order to appropriately review some requests (such as when a family requests an additional bedroom for medical equipment) a home visit may be conducted by the PHA. The PHA will provide a written decision to the person requesting the accommodation within a reasonable time. The PHA will engage in an interactive process before denial. When the request for accommodation is denied, the denial letter will indicate that the applicant or participant may contact staff to discuss alternative modifications. Additionally, the applicant or participant may submit another request for accommodation at any time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing (which serves as a grievance hearing) to appeal the PHA’s decision (please see Chapter 18 of the PHA Administration Plan).

A reasonable accommodation will be made for persons with a disability who requires an advocate. A designee will be allowed to provide information with the written permission of the person with the disability.

Reasonable accommodations will be made for persons requesting PHA mailings to be available in an accessible format.

Undue Hardship

A request for a reasonable accommodation for a person with a disability will be granted upon verification. The Reasonable Accommodation Committee will review the request to ensure that the request will meet a

need and does not create an undue financial or administrative burden on the PHA. The PHA may deny the request and/or present an alternate accommodation that will still meet the need of the person. Prior to the decision, the RACC or the Receiver should interact with the requester.

An undue administrative burden is one that would require a fundamental alteration of the essential functions of the PHA or would pose a severe financial hardship on the PHA.

In determining whether an accommodation would create an undue hardship, the following guidelines will apply:

- The nature and cost of the accommodation needed;
- The overall current financial resources of the facility or facilities; and
- The number of persons currently employed at such facility;
- The number of families likely to currently need such accommodation;
- The effect on expenses and resources, or
- The likely impact on the operation of the facility as a result of the proposed accommodation.

C. PROCEDURE FOR PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION OF DISABILITIES

This procedure establishes a framework for the receipt, processing, and final disposition of informal and formal client reasonable accommodation requests. While individual requests may require special handling, these guidelines are to be followed whenever possible. Proper documentation and tracking for each step in the process is essential.

A brochure has been developed explaining the process for requesting a reasonable accommodation which is distributed to families at initial intake and at annual re-certifications.

Informal Reasonable Accommodation Requests

When a client requests an accommodation which appears, on its face, to be reasonable in relation to the client's visible disability, staff should handle the request informally. "Informally," means that the request can be granted with only supervisory review and approval, without first submitting it to the Reasonable Accommodation Compliance Committee (RACC) for review (RACC review will take place after the fact).

Informal reasonable accommodation requests may be granted expeditiously. Staff must still enter information into the appropriate fields of the Reasonable Accommodation Tracking Log and notate the electronic tenant file as to the request and the approval of the reasonable accommodation.

Annual approvals for informal requests for reasonable accommodations will not be required during subsequent re-certifications. However, the PHA retains the right to re-evaluate the need for the RA at any time. The case worker will then require third party verification in order to verify the need for the RA.

Some examples of disabilities that may fit the informal approval procedure include:

- A person with quadriplegia requesting a front door ramp, wider doorways, grab bars, and reduced-height and cut-out kitchen cabinetry, or an additional bedroom for an existing live-in aide. The client's self-certification and the caseworker's observations are sufficient to informally

grant the reasonable accommodation request when there is a nexus between the observed disability and the requested reasonable accommodation (for Public Housing).

- Increases in the Payment Standard up to 120% of the FMR to accommodate disabled residents' higher cost for housing that meets particular needs, when those particular needs are visible.
- A visible disability or impairment which would require an accommodation wherein business will be conducted over the telephone, by home visits, or by other means not involving trips to the office.

The processing of Informal Reasonable Accommodation requests should be done promptly to reduce the time the client must wait to obtain their reasonable accommodation. When possible, housing staff should immediately begin the process of securing the requested reasonable accommodation.

Informal handling of Reasonable Accommodation requests should not be used as a "shortcut" to third party verification. If the disability is not visible, then it should be put through the formal process.

The Reasonable Accommodation Review Committee shall review each week's reasonable accommodation requests to determine whether informal reviews are being utilized appropriately and communicate any adjustments to staff that may be necessary for efficient and proper handling of these requests.

Formal Reasonable Accommodation Requests

Formal processing of reasonable accommodation requests is required when:

- the disability and/or the need for a specific accommodation is not visible; or
- it is not clear how the requested accommodation is related to the disability, or
- the reasonable accommodation is unreasonable, cost prohibitive, or approval at the informal level is uncertain.

In these cases, a formal Reasonable Accommodation request must be submitted for the review of the RACC.

Step 1: Client Request for Reasonable Accommodation Due to Disability

Upon a client's request for a reasonable accommodation for a disability, staff should immediately recommend that the client complete the first two pages of the *Authorization for Use or Disclosure of Health Information* form. This form will provide the information needed to identify the client, specify their requested accommodation, and authorize their health care or other qualified professional to release information needed to properly verify the client's need for the accommodation they are requesting.

The form must be returned to the office so that housing authority staff can fax the form to the qualified professional. This will help to maintain the integrity of the third party verification process that is central to the formal reasonable accommodation process.

If a current letter is received from a qualified professional requesting a reasonable accommodation that provides all the relevant information, the letter can be accepted as an option for the standard form.

Step 2: Staff Action on the Request

Once the completed forms are received, staff will review the form for completeness and work with the client to clarify the request as needed. Staff will ensure that all appropriate information is provided and will then sign and date the bottom of the form (designated for office use only). The client will be provided with a copy of the form if requested.

Staff shall send via fax all four pages of the *Authorization For Use Or Disclosure of Health Information* form to the qualified professional identified by the client. Housing staff should advise the client to contact the qualified professional to encourage their participation and cooperation in the timely processing of their reasonable accommodation request. Staff will document in the electronic tenant file (Yardi) the date request received, the accommodation requested, and the date which the form was faxed to the qualified professional.

Staff sends the Accommodation Request Packet (ARP) to the Reasonable Accommodation Receiver (RAR) via inter-office mail no later than the end of the next business day after faxing.

The ARP consists of the first two pages of the *Authorization For Use Or Disclosure of Health Information* form that are sent to the qualified professional, along with the fax confirmation sheet, if it is available.

Step 3: Front End Processing Responsibility

The RAR will receive ARPs from staff, compile completed *Authorization For Use Or Disclosure of Health Information* form from qualified professionals, and respond to status questions from clients or process questions from qualified professionals.

The RAR will be responsible for the centralized tracking and filing up until consideration of the RACC.

Step 4: Role of the RACC

The RACC reviews all completed reasonable accommodation requests weekly. The members are:

1. The Chair (Accommodation Coordinator, who is a Housing Authority senior management staff person);
2. One Program Manager from the Housing Choice Voucher program;
3. One Regional Manager from the Housing Management division;
4. One Site Manager; and
5. One Supervisor or above from housing authority Applications (HCV or public housing).

At least three (3) members are necessary to make a decision.

RACC members shall meet to review and evaluate the requested accommodations in light of the provider's verification of disability-related need and recommendations as to the needs for reasonable accommodations.

If the information submitted by the health provider is incomplete, the RACC may follow up to request additional information or clarification.

The RACC shall also review the *Informal Requests for Reasonable Accommodations* and maintain documentation of these decisions.

The RACC shall determine whether the reasonable accommodation request is:

- Approved; or
- Denied

The RACC may also work interactively with the family to obtain additional information or to look at other alternatives through an interactive process before making a decision.

The Chair of the RACC is also the HUD Section 504 Coordinator for the PHA.

Step 5: Client Communication and the Interactive Process

In the event that the qualified provider specified in the ARP is non-responsive for twenty-one (21) calendar days, a void letter shall be issued saying that no response has been received from the specified provider. The void letter shall specify that any additional information will be considered.

In those cases where an evaluation of the qualified provider's recommendation indicates an alternate accommodation may be similarly effective, and based on the RACC's recommendation, the Reasonable Accommodation Receiver, or designated staff, may engage in an interactive process with the client. This negotiation attempts to reach agreement between the original request and an alternate accommodation that would effectively address the disability-related need as stated by the provider. Note that the client must voluntarily agree to an alternate accommodation.

If an alternate accommodation is agreed to, the Reasonable Accommodation Receiver (or designee) will inform the RACC at the next meeting and the alternate accommodation is documented. Consultation with program management staff is essential if there has not been representation on the Reasonable Accommodation Committee.

The interactive process may also be utilized when the RACC needs additional information or the requested accommodation is not clear. In any case, whenever the RACC has complete information from the qualified provider, the RACC will make a decision: either to approve or to deny the request and must communicate this decision in writing to the family.

When requests are made for an additional bedroom for medical equipment, a home visit may be scheduled to evaluate the size and quantity of the equipment to be accommodated.

Staff will provide a copy of the forms completed by the qualified professional if requested by the family.

Step 6: Completing the Reasonable Accommodation Process

When reviewing the information submitted, the RACC is looking for a nexus between the requested accommodation and the disability-related need. The purpose of granting the accommodation is to either allow a disabled person access to the program or to allow a disabled person to obtain all of the same benefits of program participation as a non-disabled person.

The completed and documented file shall be the responsibility of the RAR, who shall securely maintain the central files containing confidential reasonable accommodation processing paperwork separate from the client files.

When the decision is made, the electronic file will be documented in Yardi.

The RAR, or designee, shall issue the final disposition of the reasonable accommodation request in writing to the client. The disposition letter shall provide the client with:

- A brief rationale for the accommodation's approval, modification, or denial;
- Specific information regarding the client's right to additional reconsideration if/when they submit further information to support their request;
- The client is also provided with a phone number, which they may call to speak with the RACC representative if there are any questions; and
- The family's right to appeal the RACC's determination to a third party, acting as a hearing officer, provided that the written request for an informal hearing is received within (30) days from the time they receive their determination letter.

A copy of this letter will be placed in the tenant file. No confidential health-related information shall be included in the tenant or case file.

The RACC members representing the program from which the client originated shall have the ultimate responsibility to ensure the final accommodation is implemented in a timely manner.

Step 7: No Subsequent Third Party Verification for Formal Requests

No further annual approvals for reasonable accommodations will be needed during subsequent recertifications as long as the client's health care provider has previously certified that the condition is not expected to improve over the long term.

However, the PHA retains the right to re-evaluate the need for the RA at any time. Staff will then require third party verification in order to verify the need for the RA.

If it is believed the reasonable accommodation was granted under false pretenses, an interim examination and re-evaluation may be initiated with supervisory approval.

Step 8: Confirmation at Inspection

When the RACC approves an additional bedroom for any purpose, a note is sent to the inspectors at the time of annual inspection so that the Agency can verify that the bedroom is continuing to be used for its approved purpose. If the purpose of the bedroom has been changed from what was approved, the inspector will take photographs and send to the caseworker who will then call the family in for a Mandatory Tenant Conference (MTC). At the MTC, the staff will determine the next appropriate steps.

Step 9: Grievance or Appeal Process

If the RACC denies the requested accommodation, a letter is sent to the family stating that any additional information will be considered at any time it is received. The client is also provided with a phone number, which they may call to speak with the RAR. Additionally, the family is notified of their right to appeal the decision by requesting an Informal Hearing before a third party. During the Informal Hearing the family may present their reasons for requesting the reasonable accommodation and any supporting documentation.

(For HCV, please refer to Chapter 18 for *Grievances and Appeals*).

(For Public Housing, please refer to Chapter 13 *Complaints, Grievances and Appeals*