



FAIR HOUSING FOR RESIDENTS WITH DISABILITIES

A GUIDE TO REASONABLE ACCOMMODATIONS AND MODIFICATIONS



“We are Your Neighbors. We are Your Community. We are Your Resource.”

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, educational fair housing seminars for tenants and landlords (English, Spanish, Farsi, and Arabic), services to tenants, landlords, and apartment managers, real estate and rental practice discrimination audits, and free rental housing handbooks.

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. Other issues CSA addresses include: hate crime prevention, civil rights of first generation immigrants, human trafficking, youth education, and voter education.

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. If you are looking for legal advice or opinions, please consult with a licensed attorney.

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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.

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 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.



DEFINITIONS AND EXAMPLES

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 are necessary for people with disabilities to have an 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 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 due to a mobility impairment
- Providing a copy of the lease agreement in a large size font to assist with a visual impairment.

Reasonable Modification

Reasonable modifications include alterations or structural changes made to existing physical premises to allow a 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 \$

Tenants may be responsible for the cost of reasonable modifications. 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. The tenant is not 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 modifications are made, so you know what you will be responsible for. Federally assisted housing providers may be required to pay for disability related reasonable modifications.

Do I pick just one?

NO. There is no limit on the number of accommodations or modifications per tenant. There is no limit of the number of times a tenant may make a request. Further, a landlord may not impose an accommodation on a tenant who does not want one.

How Do I Request a Reasonable Accommodation or Reasonable Modification?

An individual with a disability must request for the reasonable accommodation and/or reasonable modification he or she needs. The housing provider is not expected to know what one 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, it is always best to make the request in writing. Two ways an individual can make a request in writing is by drafting a letter or by using the three forms provided in this handbook.

WRITING 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. At the end of the letter, ask for a response to your request to be given in writing. Housing providers have a duty to engage in an interactive process when an individual requests accommodation or modification due to disability.

Unless the disability is apparent, include a letter of verification from the individual's health care provider confirming the individual qualifies 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 3 ATTACHED FORMS

There are 3 forms provided in this packet that will aide in requesting the reasonable accommodation and/or modification.

- 1) Request Form:** The first form is for the individual with the request to complete.
- 2) Medical Verification Form:** 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, this can be used in place of the form. See the following page for further guidance in regards to medical verification.
- 3) Response Form:** The third form is for the housing provider to respond to the request. They may choose to write their own letter in place of the form. Leave this form blank so the housing provide may properly respond.

Present the housing provider all three forms at once and keep copies of all the forms and letters for safe keeping.

Individuals are always welcome to reach out to CSA San Diego County's housing counselors for further assistance in making requests and to ask any questions about the request process.

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Medical Verification Explanation and Guidance

A person with a disability is defined under fair-housing laws 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.

If a housing provider is skeptical of a tenant's alleged disability, the provider can ask the tenant for medical verification of the disability-related need for accommodation or modification. CSA San Diego County recommends providing written medical verification with all requests for reasonable accommodation or modification unless disability is clearly and visibly apparent.

The housing provider is only entitled to the following information:

- 1. Verification that the individual has a disability per the definition under the Fair Housing Act, and**
- 2. There is a nexus or identifiable relationship between the requested accommodation or modification and the individual's disability.**

Physical or mental impairments may include (but are not limited to) conditions such as blindness, hearing impairment, mobility impairment, HIV, alcoholism, addiction, chronic fatigue, learning disability, head injury, and mental illness.

Major life activities may include (but are not limited to) seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working.

Verification that the individual is disabled per fair housing laws does NOT need to include identification of the disability or diagnosis. If it is important to the individual that his or her diagnosis or specific disability be kept confidential, make sure the health care provider understands that the individual chooses not to (and is not required to) share anything beyond the two points listed above.

Health care providers are welcome to reach out to CSA San Diego to better understand fair housing laws and the verification needed for reasonable accommodations.

CAUTION!

Be aware of online certificates, online registries or paid-for medical verification letters from the internet for requests for emotional support animals. Most often, these will not be enough to show that an individual requires an animal to assist with their disability.

FORMS



REQUEST FORM

REQUEST FOR:

- REASONABLE ACCOMMODATION
- REASONABLE MODIFICATION

FROM:

_____ (name)
 _____ (address)

TO:

_____ (name)
 _____ (address)

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

_____ (name)

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. This includes any individual with:

- (1) a physical or mental **impairment** which substantially limits one or more of such person's **major life activities**,
- (2) a **record** of having such an impairment, or
- (3) being **regarded** as having such an impairment

For further information, please refer to page 5 of this handbook, titled "Medical Verification Explanation and Guidance"

Name of Health Care Provider: _____

Address/Phone: _____

Health Care 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. The following accommodation and/or modification is consistent with the needs associated with the identified disability:

(*accommodation/modification*):

Thank you,

_____ (*signature*)

_____ (*title*)

_____ (*date*)

APPROVAL OR DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION AND/OR MODIFICATION

Please respond to the request for reasonable accommodation and/or modification in writing, by use of this form or through a mailed letter with your official letterhead.

FROM: _____ (name, title)

_____ (address)

_____ (company)

TO: _____ (name)

_____ (address)

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 no later than seven (7) business days from the date we have received your request to schedule this meeting.

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