

# **REASONABLE ACCOMMODATION IN HOUSING POLICY**

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March 30, 2021 approved

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**EQUAL HOUSING  
OPPORTUNITY**

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# **REASONABLE ACCOMMODATION IN HOUSING POLICY**

## **I INTRODUCTION**

It is the Acton Housing Authority's (hereinafter "AHA") policy to provide "reasonable accommodation"<sup>1</sup> in housing for applicants and residents and housing voucher participants ("hereinafter "participants") with disabilities<sup>2</sup> where reasonable accommodation is necessary to provide them with an equal opportunity to use and enjoy AHA housing. This policy is in furtherance of the AHA's goal of providing affordable housing to low income persons regardless of disability and in compliance with applicable federal, state, and local law. A "reasonable accommodation" is a modification or change the AHA can make to its procedures and rules or to the person's apartment or to a common area which would assist an otherwise eligible person with a disability to benefit from AHA housing or programs, provided that the change does not pose an undue financial and administrative burden to the AHA or result in a fundamental alteration of its program.

The Reasonable Accommodation in Housing Policy (RAHP) outlined here applies to AHA applicants, residents and participants who are qualified "individuals with a disability" as set forth within. The AHA may require reliable documentation or verification of the disability (this will not require a description of the cause of the disability, diagnosis or medical records), that the individual needs the accommodation, and that the accommodation is likely to be effective. The AHA will thoroughly and promptly consider any request for a reasonable accommodation, and will explain the basis for any denial to the requester.

The Executive Director is the Reasonable Accommodation Coordinator for the AHA.

## **II. POLICY GUIDELINES**

The following policy guidelines shall be in effect for assessing requests for reasonable accommodation by AHA applicants, residents and participants with disabilities. The guidelines are not intended to be an exhaustive compilation of rules or policies governing assessment by AHA of requests for reasonable accommodation. If any conflicts exist or arise between these guidelines and guidance issued by the U.S. Department of Housing and Urban Development, or existing or future statutes, regulations, or other legal requirements, the

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<sup>1</sup> For purposes of this Reasonable Accommodation in Housing Policy, the term "reasonable accommodation" includes with its scope the term "reasonable modification".

<sup>2</sup> For purposes of this Reasonable Accommodation in Housing Policy, the term "disability" includes with its scope the term "handicap".

AHA shall follow the other requirements. The term "applicant" as used in these guidelines only refers to the individual requesting a reasonable accommodation, whether the person is applying for housing voucher assistance, residency at the AHA or is already a AHA resident or housing voucher participant.

The forms and notices referenced within the plan may be modified from time to time if others are deemed more appropriate for use by the AHA. The forms and notices attached are illustrative and may be substituted without board approval.

## **A. PROCEDURES**

The AHA has developed and will implement these procedures through which individuals may request a reasonable accommodation.

The AHA shall make available to all persons applying for residency at the AHA, housing voucher assistance, or currently AHA residents or participants, notice of the option to request a reasonable accommodation. The form for requesting a reasonable accommodation is available upon request.

Decisions on requests for reasonable accommodation will generally be made within thirty (30) days after the date on which the application is complete. If the AHA requests that an applicant supply additional information that is reasonably necessary for the AHA to make a decision on the applicant's request for an accommodation, the applicant should provide the requested information, or otherwise respond to the AHA's request, within a reasonable time period. The time period during which any interactive dialogue on the reasonable accommodation is occurring, or items relevant to the request are awaiting verification will extend the time frame for the decision.

If the AHA denies a request for a reasonable accommodation, it must explain to the applicant in writing the basis for its decision and reason why the request is being denied.

The AHA shall, consistent with applicable laws, keep information supplied by the applicant related to the nature or effects of the applicant's disability confidential and available only to persons within the AHA who are directly involved in decisions regarding the request for reasonable accommodation.

## **B. ASSESSMENT OF REQUESTS**

[1] In determining whether reasons for denial exist, the AHA may obtain verification of the reasons advanced for an accommodation.

[2] In assessing requests for reasonable accommodation, the AHA shall consider the factors set forth below, in making its determination of whether or not to grant the request.

### **Determinative Factors:**

1. Whether the applicant is a qualified "individual with [a] disability".
2. Whether the requested accommodation is related to the disability.
3. Whether the requested accommodation is "reasonable". A request for an accommodation shall be considered to be "reasonable" as long as it does not create an undue financial hardship or administrative burden or constitute a fundamental alteration in a housing program.

[3] The determination of whether an accommodation constitutes an undue financial or administrative burden shall be made on a case by case basis, taking into account the circumstances and resources available at the time of the decision.

[4] If granting the requested accommodation would create an undue financial or administrative burden, the AHA shall comply with the request to the extent it can do so without undergoing undue burden(s) as described above if it is determined that this modified accommodation would still make the program usable for an accessible by the individual requesting the accommodation.

[5] If granting the requested accommodation would constitute a fundamental alteration in the housing program, the AHA may deny the request.

If there are a number of different accommodations that would satisfy the needs of the person with the disability, the AHA may select the option which is most convenient and cost effective.

[6] If the Housing Authority determines that there is still a high likelihood of the individual being a threat to the health or safety of others which cannot be eliminated by a modification of policies, practices or procedures or the provision of auxiliary aids and services in

accordance with the plan and applicable law the AHA need not grant the accommodation. In making this determination the AHA will make an individualized assessment based upon reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modification of policies practices or procedures will mitigate the risk.

### **C. COMMUNICATIONS WITH DISABLED APPLICANTS OR RESIDENTS**

[1] The AHA shall take appropriate steps to assure effective communication with applicants and residents who are disabled, and shall furnish appropriate auxiliary aids and services where necessary to facilitate communication with an individual who has a disability. However, the AHA is not required to take any action which would result in a fundamental alteration in the nature of the housing program or constitute an undue financial or administrative burden to the AHA. The AHA is not required to provide personal items such as hearing aids, magnifying eyeglasses, or readers for personal study.

[2] The AHA shall prepare documents in clear and simple language, to the extent possible, to assist persons with learning and cognitive disabilities. If requested by persons with such disabilities, AHA staff will explain written material verbally, and possibly more than once, and if necessary assist the individuals or obtain assistance for them in filling out any necessary forms.

[3] If an applicant or resident with a disability so requests, the AHA will permit an advocate, friend or service provider to assist the person at any meetings, conferences or interviews. Upon request of an applicant or resident with a disability, the AHA will arrange to send a copy of any AHA notice to an authorized third party representative as well as to the applicant or resident.

[4] Mass Relay is a free and confidential relay service which enables an applicant or resident who is deaf, hard of hearing, late deafened or speech disabled to communicate with the AHA.

### **III. ADMISSION OF APPLICANTS**

#### **A. APPLICANT INFORMATION AND NOTICE OF RIGHT TO REASONABLE ACCOMMODATION**

At time of first contact with the Housing Authority, prospective applicants for housing and housing assistance shall be informed of their right to request a reasonable accommodation for a disability from the AHA. For Housing voucher participants from the centralized waiting list the time of first contact may be when their name reaches the top of the centralized waiting list and is referred to the Housing Authority. Notice is provided by the provision of **RA Notice 1 and RA Form 1**.

#### **B. APPLICANT REQUEST FOR REASONABLE ACCOMMODATION**

[1] Upon request made to the AHA, any applicant shall be provided with a Request for Reasonable Accommodation (**RA Form 1**). If the request is for a support animal the applicant will also be provided with the "FHEO Guidance on Documenting an Individual's Need for Assistance Animals in Housing" document which is attached to HUD FHEO Notice 2020-01. A copy of the AHA's RAHP shall also be made available upon request. It is the responsibility of the applicant to request a reasonable accommodation.

[2] The Request for Reasonable Accommodation (**RA Form 1**) shall be submitted to the AHA for review and action as discussed below. Staff will accept requests in an alternative form if necessary, because of a disability. Verbal requests are accepted but may sometimes lead to confusion so written requests are recommended.

[3] Provided that the following inquiries are made of all applicants, whether or not they have a disability, AHA staff may inquire into an applicant's ability to meet the requirements of the AHA lease; into whether an applicant is a current illegal abuser of a controlled substance, abuses alcohol or has a criminal record; or into whether the applicant has a need for a specially designed apartment. If an applicant requests a specially designed apartment or applies for housing available only to persons with a disability, or for a preference or rent deduction available only to persons with a disability, AHA staff may ask whether he or she has a qualifying disability. If an applicant with a disability applies for a specially designed unit, AHA staff may ask the applicant to verify that his/her condition warrants the special features. In addition, if the applicant requests a reasonable accommodation, he or she may be asked to verify the disability and the need for the requested accommodation as set forth in the RAHP. With the exceptions stated above, AHA may not, at any interview or at any other

time, inquire as to whether the applicant or any proposed household member or person associated with a household member has a disability nor may they inquire as to the nature or severity of a disability or regarding its treatment.

[4] In certain circumstance the AHA may not require documentation such as for simple routine requests, requests where the disability and need is obvious or known to the housing provider, request for a sign language interpreter, request for alternate format, request for an accessible unit for a family member whose need for the accessible features of the unit is obvious and will be continuous, and grab bars.

### **C. ASSESSMENT OF A REASONABLE ACCOMMODATION REQUEST**

[1] When the Request for Reasonable Accommodation is received by the AHA, it shall be reviewed by a member of AHA staff who will determine whether any further information is needed from the applicant. Once the requested information and/or verification is obtained and reviewed, the AHA staff member shall make his or her recommendation on denial or approval of the request. Verification documentation must come from a reliable source with sufficient professional and personal knowledge of the applicant to verify the disability and need for the accommodation where applicable. Where applicable certain additional specific information will be required for approval of Support Animals as outlined in HUD FHEO Notice 2020-01.

[2] Where the AHA determines that additional information is needed from an applicant who has requested reasonable accommodation, he/she shall inform the applicant in writing as soon as practicable and provide a reasonable time period for the applicant's response but no less than 20 days from the date of the letter. The HA may request that the family complete a release (**RA Release 1**) so that the HA can document the need when other forms are insufficient to document need or to address alternative solutions where applicable.

[3] Where the AHA believes that a meeting with an applicant requesting reasonable accommodation would be useful in evaluating the request, he/she shall inform the applicant in writing as soon as practicable and identify the issue(s) involved. An applicant with a disability who requests a reasonable accommodation may also ask for a meeting with the AHA if he or she feels it would be useful in evaluating the request. A sample Letter for a Meeting about Reasonable Accommodation is attached as **RA Form 2**.

[4] All information submitted to the AHA by an applicant requesting a reasonable accommodation or by his or her verification sources which relates to the nature or effects of the applicant's disability shall be kept confidential and used solely to make a determination



on the reasonable accommodation request or eligibility for public housing or housing voucher assistance.

[5] A reasonable accommodation request may seek changes or adjustments to rules, policies, practices or procedures which are followed or prescribed by the AHA, or physical modifications to a person's prospective or current apartment or other part of the housing site, including assistive technology. A reasonable accommodation request may also seek the allowance of retroactive relief (e.g., reinstatement of an individual with a disability to the waiting list where he or she did not respond to an update notice for reasons related to the disability.)

[6] A request for reasonable accommodation shall be granted when the following three requirements are met:

(a) the subject of the request is a qualified "individual with a disability" as defined herein, and

(b) The requested accommodation is related to the disability and is necessary to provide an equal opportunity to use and enjoy the housing, and

(c) the requested accommodation is reasonable. A request shall be considered "reasonable" if it does not create an undue financial or administrative burden or constitute a fundamental alteration in the nature of the housing program.

[7] The factors which shall be considered in determining whether a requested accommodation would create an undue financial or administrative burden on the AHA are:

- a) the nature of the accommodation;
- b) the cost of the accommodation;
- c) the AHA's financial and administrative resources;
- d) the size of the housing program;
- e) the type of unit or facilities involved; and
- f) the possibility of recouping costs from another source.

[8] In determining whether a requested accommodation would cause a fundamental alteration in the nature of the housing program, the AHA shall consider whether the accommodation sought would require it to conduct activities which extend beyond the scope of its primary purpose, i.e. to operate low-income public housing, to administer Housing voucher assistance, to assure that residents comply with their lease and program obligations, and the practical components necessary to achieve those purposes. For example, a request

for the AHA to provide child care, nursing services or other services not directly related to housing would constitute a fundamental change in the nature of the program the AHA provides.

[9] In determining whether reason for denial exists, the AHA may obtain verification of the reasons advanced for the requested accommodation, and may also seek advice from qualified professionals on alternative methods of accommodating the individual's needs.

[10] The determination of whether a requested accommodation constitutes an undue financial and administrative burden or a fundamental alteration in the housing program shall be made on an individual case basis, taking into consideration the circumstances and resources available at the time of the decision.

[11] If granting a requested accommodation would create an undue financial or administrative burden, the AHA shall comply with the request to the extent it can do so without undergoing undue burden(s). However, the requirement to comply to this limited extent will be applicable provided that to do so would still make the program usable for and accessible by the requester.

[12] If there are several different accommodations that would be effective in meeting the need of the disabled person, the AHA may select the accommodation which is most convenient and cost effective.

[13] If a requested accommodation is unlikely to provide the disabled individual with an equal opportunity to use and enjoy the housing, the AHA need not grant that accommodation.

[14] If the Housing Authority determines that there is still a high likelihood of the individual being a threat to the health or safety of others which cannot be eliminated by a modification of policies, practices or procedures or the provision of auxiliary aids and services in accordance with the plan and applicable law the AHA need not grant the accommodation. In making this determination the AHA will make an individualized assessment based upon reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modification of policies practices or procedures will mitigate the risk.

## **D. DECISION ON AN APPLICANT'S REASONABLE ACCOMMODATION REQUEST**

[1] The decision on an applicant's Request for Reasonable Accommodation (**RA Form#1**) will generally be made the Housing Authority within 30 days after the date upon which the request is submitted or if applicable generally within 30 days after the date upon which any additional information or verification reasonably necessary for his or her decision is provided. If the AHA requests that an applicant supply additional information that is reasonably necessary for the AHA to make a decision on the applicant's request for an accommodation, the applicant should provide the requested information, or otherwise respond to the AHA's request, within a reasonable time period. The time period during which any interactive dialogue on the reasonable accommodation is occurring, or items relevant to the request are awaiting verification may extend the time frame for the decision.

[2] Any denial of an applicant's request for reasonable accommodation shall explain to the applicant in writing the basis for the decision and the reason(s) why the request is being denied. The applicant shall also be informed of his or her right to request in writing an informal hearing on the decision. A sample Denial of Request for Reasonable Accommodation form is attached as **Form #3**, and shall be used by the AHA to communicate and document any denial.

[3] Any approval or conditioned approval of an applicant's request for reasonable accommodation shall be communicated in writing to the applicant. It shall describe the accommodation that will be provided, including any terms, conditions and performance expectations that would be subject to the applicant's agreement, and shall indicate the date for implementation, which shall be as soon as practicable and except as explained in the approval notice no later than 30 days from the date of decision. A sample Reasonable Accommodation Approval Notice is attached as **Form #4**, and shall be used by the AHA to communicate and document any approval.

[4] Where an applicant's eligibility for admission to the AHA depends on whether his or her request for reasonable accommodation will be granted, the AHA will not take final action on the eligibility determination until a final decision has been made on the reasonable accommodation request, provided that the applicant is not determined to be ineligible based on other grounds.

## **IV. RESIDENCY AND REASONABLE ACCOMMODATION**

### **A. RESIDENT OR PARTICIPANT REQUEST FOR REASONABLE ACCOMMODATION**

[1] A copy of the Notice Regarding Reasonable Accommodations, attached as **Notice 1**, shall be provided to each new resident and Housing voucher participant (hereinafter “participant”) upon occupancy or initial lease up as applicable. A copy of this Notice shall also be posted conspicuously at the AHA office. In addition once each year, the recertification packet provided to each resident/participant shall contain a copy of this Notice.

[2] Upon request made to AHA staff, any resident or participant shall be provided with the Request for Reasonable Accommodation (RA Form 1). When the request is for a support animal the resident will also be provided a copy of the “FHEO Guidance on Documenting an Individual’s Need for Assistance Animals in Housing” document which is attached to HUD FHEO Notice 2020-01. A copy of the AHA’s RAHP shall also be available upon request. It is the responsibility of the resident to request a reasonable accommodation.

[3] Provided that the following inquiries are made of all residents and participants, whether or not they have a disability, AHA staff may inquire into an applicant's ability to meet the requirements of the AHA lease; into whether an applicant is a current illegal abuser of a controlled substance, abuses alcohol or has a criminal record; or into whether the applicant has a need for a specially designed apartment. If a resident or participant requests a specially designed apartment or applies for housing available only to persons with a disability, or for a preference or rent deduction available only to persons with a disability, AHA staff may ask whether he or she has a qualifying disability. If a resident or participant with a disability applies for a specially designed unit, AHA staff may ask the resident or participant to verify that his/her condition warrants the special features. In addition, if the resident or participant requests a reasonable accommodation, he or she may be asked to verify the disability and the need for the requested accommodation as set forth in the RAHP. With the exceptions stated above, AHA may not, at any interview or at any other time, inquire as to whether the resident or participant or any household member or person associated with a household member has a disability nor may they inquire as to the nature or severity of a disability or regarding its treatment.

[4] At any private conference held concerning an adverse action, the AHA management shall discuss the right to request reasonable accommodation.

[5] A resident or participant may request reasonable accommodation for disability at any point during his/her tenancy or program participation. In addition, there is no limit on the

number of reasonable accommodation requests a resident or participant may make or that the AHA may be required to provide. As a general rule, all requests for reasonable accommodation by a resident or participant shall be considered; however, management may require reliable documentation that the person needs the accommodation and that it is likely to be effective.

[6] If a resident or participant requests a different accommodation because he/she believes that the AHA previously made an insufficient or inappropriate accommodation, that request shall be reviewed and decided as though it was an initial accommodation request.

## **B. ASSESSMENT OF A RESIDENT OR PARTICIPANT REASONABLE ACCOMMODATION REQUEST**

[1] The Request for Reasonable Accommodation, (**RA Form 1**) shall be submitted to the AHA for review, the AHA shall determine whether any further information is needed from the resident and/or whether verification of the disability and the necessity of the requested accommodation is required from an appropriate source. Verification documentation must come from a reliable source with sufficient professional and personal knowledge of the applicant to verify the disability and need for the accommodation where applicable. Certain additional specific information may be required for approval of support animals as outlined in HUD FHEO Notice 2020-01 and the AHA's Service and Support Animal Policy.

[2] Where the AHA determines that additional information is needed from a resident or participant who has requested reasonable accommodation or that a meeting with the resident or participant would be useful in evaluating the request, he or she shall follow the procedures described within the this Plan previously regarding obtaining such information and documentation.

[3] In assessing a resident or participant's reasonable accommodation request, AHA management shall follow the same criteria set forth at Section III, C ASSESSMENT OF A REASONABLE ACCOMMODATION REQUEST above.

## **C. DECISION ON A RESIDENT OR PARTICIPANT'S REASONABLE ACCOMMODATION REQUEST**

The decision on a resident or participant's Request for Reasonable Accommodation (**RA Form 1**) will generally be made the Housing Authority within 30 days after the date upon which the request is submitted or if applicable generally within 30 days after the date upon

which any additional information or verification reasonably necessary for his or her decision is provided. If the AHA requests that an applicant supply additional information that is reasonably necessary for the AHA to make a decision on the applicant's request for an accommodation, the applicant should provide the requested information, or otherwise respond to the AHA's request, within a reasonable time period. The time period during which any interactive dialogue on the reasonable accommodation is occurring, or items relevant to the request are awaiting verification may extend the time frame for the decision.

The AHA shall follow the procedure set forth at Section III, D DECISION ON AN APPLICANT'S REASONABLE ACCOMMODATION REQUEST above regarding denial or approval of the request.

#### **D. REASONABLE ACCOMMODATION FOR LEASE VIOLATIONS AND EVICTIONS**

[1] Where a resident with a disability engages in a lease violation, AHA management shall approach the situation as with any other resident except that if the resident requests reasonable accommodation in order to comply with the lease, the request shall be considered. At any private conference with a resident on a lease violation, AHA management shall discuss the right to request reasonable accommodation, and have the form readily available.

[2] Although AHA management must make reasonable accommodation to enable a person with a disability to comply with the requirements of his/her lease, an accommodation is not reasonable if it would require a fundamental alteration in the nature of the program or would impose undue financial and administrative burdens on the AHA. Further, if the Housing Authority determines that there is still a high likelihood of the individual being a threat to the health or safety of others which cannot be eliminated by a modification of policies, practices or procedures or the provision of auxiliary aids and services in accordance with the plan and applicable law the AHA need not grant the accommodation

See previous discussion within this policy for considerations on a whether a requested accommodation would fundamentally alter the nature of the housing program and the considerations in likelihood of threat. In addition, the provision of reasonable accommodation shall not require the lowering or waiving of essential eligibility requirements for the housing program.

[3] A resident or participant with a disability has the right to refuse reasonable accommodation. However, if a resident or participant who has refused reasonable accommodation engages in lease violating behavior, AHA management may enforce the lease

or program requirements and seek appropriate remedies including eviction or termination as with any other resident or participant.

[4] If a disabled resident who has committed a lease violation requests a reasonable accommodation in order to comply with his/her lease, AHA management must in considering the request, determine whether it is reasonable to believe that the problem is not likely to recur with the accommodation sought. For this purpose, management may request the resident to provide appropriate information, documentation or verification within a reasonable time period. If management believes that, based on objective information, the accommodation is not likely to solve the lease problem, the accommodation may be denied.

[5] If a resident or participant with a disability engages in persistent lease or program violating behavior and refuses requests to discuss the problem or possible reasonable accommodation, AHA management shall proceed as it would with any other resident or participant under similar circumstances.

## **V. REASONABLE ACCOMMODATION REQUESTS MADE AT AN INFORMAL REVIEW, INFORMAL HEARING OR GREIVANCE HEARING**

Where an applicant, participant or resident raises a request for a reasonable accommodation at the time of an informal review, informal hearing or grievance hearing the decision may be made by the Hearing Officer utilizing the principles as set forth in III C Assessment of a Request as set forth within this policy. At the discretion of the Hearing Officer, the Hearing Officer may elect to require the Housing Authority to make the decision on the reasonable accommodation and provide a new date for the informal review, informal hearing or grievance hearing. If the Housing Authority denies the request for a reasonable accommodation this denial will also be considered by the hearing officer at the rescheduled informal review, informal hearing or grievance hearing.

## **VI. GENERAL PROVISIONS**

### **A. THIRD PARTY REPRESENTATIVES**

[1] Any individual with a disability who makes a reasonable accommodation request may authorize a third party representative to act on his or her behalf in dealing with the AHA or with verification services on the request.

[2] Upon presentation of appropriate authorization, a third party representative may fill out and sign the Request for Reasonable Accommodation form for an individual with a disability.

[3] Upon submission of a written request by an individual with a disability who has asked for reasonable accommodation, an authorized third party representative shall be given access to all documents in the individual's AHA files which relate to his or her reasonable accommodation request.

## **B. CONFIDENTIALITY**

[1] Except as provided at paragraph 4 below all information submitted to the AHA by a person requesting reasonable accommodation on the basis of disability or by any verification source which relate to the nature or effects of the disability shall be kept confidential and used solely to make a determination on the reasonable accommodation request. This information may not be revealed to other residents or to another housing provider who calls for a reference or to any AHA staff not involved in evaluating the reasonable accommodation request. This requirement does not, however, prevent AHA employees from stating to another housing provider whether the person has complied with AHA lease obligations.

[2] All decisions made by the AHA on a reasonable accommodation request shall be kept confidential except insofar as disclosure is necessary to implement an approved accommodation or to comply with the review and appeal procedures set forth in the RAHP.

[3] Federal, state, and local civil rights enforcement agencies shall be provided with such information and documents as is authorized by law.

[4] Individuals requesting a reasonable accommodation based on disability shall upon request to the AHA be entitled to copies of all documents in their AHA files which relate to their reasonable accommodation request, in accordance with applicable law. In addition, upon written request of an individual with a disability access to such documents shall be provided to his or her authorized third party representative.

## **C. NON-RETALIATION**

[1] The AHA shall not discriminate or take any retaliatory action against a person who has requested a reasonable accommodation on the basis of a disability, or who has assisted or encouraged any other person to request such an accommodation.



[2] The AHA shall not discriminate or take any retaliatory action against a person who has exercised his or her right of appeal or filed an administrative agency complaint or sought judicial review on a reasonable accommodation request, or who has assisted or encouraged another person to do so, or who has assisted in the investigation of a reasonable accommodation claim.

#### **D. RECORDS**

Provided that such does not violate any privacy or confidentiality laws or HUD directives, or the AHA shall maintain in the individual file of any applicant or resident requesting reasonable accommodation copies of the following documents for a period of seven years from the date of the reasonable accommodation request: the Request(s) for Reasonable Accommodation; the Denial or Approval Notice(s); any final decision following an informal hearing; any settlement agreements; any decision(s) of AHA Administrator/designee; any decision(s) of an administrative agency or a court; documentation that an approved accommodation has been implemented; and all correspondence between the applicant or resident and the AHA, and between the AHA and verification sources concerning the reasonable accommodation request.

#### **E. NOTICE TO AHA EMPLOYEES**

All new and current AHA employees shall be advised of the AHA's Reasonable Accommodation in Housing Procedures and their responsibilities thereunder.

## APPENDICES

## **NOTICE REGARDING REASONABLE ACCOMMODATION**

### **Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are available for Applicants and Residents with Mental and/or Physical Disabilities**

Local Housing Authority (LHA) does not discriminate against applicants or residents on the basis of mental (including psychiatric) or physical disabilities. In addition, the LHA has an obligation to provide "reasonable accommodations" and "reasonable modifications" on account of a disability if an applicant or resident or a household member is limited by the disability and for this reason needs such an accommodation or modification. A reasonable accommodation is a change that the LHA can make to its rules, policies, practices, or services, and a reasonable modification is a change an LHA can make to its facilities (including physical alterations to the housing unit or public or common use areas) that will assist an otherwise eligible person with a disability to have equal opportunity to use and enjoy the housing or common or public use areas or to participate fully in the LHA's programs, activities, or services. Such changes may not be reasonable if they are not financially and programmatically feasible for the housing authority.

An applicant or resident household which has a member with a mental and/or physical disability must still be able to meet essential obligations of tenancy (for example, the household must be able to pay rent, to care for the apartment, to report required information to The LHA, and to avoid disturbing neighbors), but an accommodation or modification may be the basis by which the household is able to meet those obligations of tenancy.

The LHA has an Accommodation Coordinator. If you need an accommodation or modification because of a disability, please complete the attached form and return it to the LHA. Upon reasonable request by the LHA, you must also submit documentation verifying the existence of a disability and the disability-related need for the accommodation or modification. Within thirty (30) calendar days of receipt of your request and documentation, the Accommodation Coordinator will contact you to discuss what the LHA can reasonably do to provide you an accommodation or modification on account of your disability.

If you or a member of your household has a mental and/or physical disability, and as a result needs an accommodation or modification, you, the household member, or authorized representative, may request it at any time. However, you are not obliged to make such a request, and if you prefer not to do so that is your right.

# REQUEST FOR REASONABLE ACCOMMODATIONS/MODIFICATIONS

To: Accommodation Coordinator \_\_\_\_\_

Housing Authority \_\_\_\_\_

Address \_\_\_\_\_

From: \_\_\_\_\_  
Applicant or Resident Name (please print) Control Number

\_\_\_\_\_  
Street Address Town/City, State, Zip

\_( ) \_\_\_\_\_  
Area Code/Telephone Number

1. On account of my disability, I request the following be done in order to permit me to have equal opportunity to use and enjoy the housing or public or common use areas or to participate fully in the Housing Authority's programs, activities, or services: (Describe)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. This request for a reasonable accommodation/modification is necessary so that I can:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Documentation needed to verify the existence of my disability and my disability-related need for the accommodation/modification is attached. (Attach appropriate documentation)

I attest that the foregoing information is true and correct.

\_\_\_\_\_  
Signature of Applicant or Resident (or authorized representative)

\_\_\_\_\_  
Date

**RA Form 1**



## Consent for the Release of Information Necessary to Process a Reasonable Accommodation

**To Applicant or Tenant:** This is a release of information to allow us to verify your disability related need for the accommodation you requested. Please make sure the information about who is to give information and who is to receive the information is clearly filled in before you sign it.

### I GIVE PERMISSION TO GIVE INFORMATION TO:

Name \_\_\_\_\_

Title \_\_\_\_\_

Housing Authority or Development Name \_\_\_\_\_

Address \_\_\_\_\_

Phone/TTY \_\_\_\_\_

### I GIVE PERMISSION TO GIVE INFORMATION FROM:

Name \_\_\_\_\_

Title \_\_\_\_\_

Service or Medical Organization \_\_\_\_\_

Address \_\_\_\_\_

Phone/TTY \_\_\_\_\_

### REGARDING:

Tenant or Applicant Name \_\_\_\_\_

Address \_\_\_\_\_

Phone/TTY \_\_\_\_\_

I hereby authorize the service or healthcare provider named above to contact the housing staff listed above or housing provider listed above to contact the service provider listed above to verify disability status, need for the requested accommodation described below and the connection between the two. I understand that this information will be kept confidential and used only to make a decision about my reasonable accommodation request. I understand I may change my

mind and notify the housing and service provider that I no longer give permission to discuss my request.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Requested Accommodation:

- Form 1 and documentation submitted therewith attached

OR

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**Notice**

Title 18, Section 1001 of the US Code states that a person is guilty of a felony for knowingly and willingly making false statements to any Department of the United States Government. HUD and any employee of HUD may be subject to penalties for unauthorized disclosures or improper uses of information collected based on consent forms. Use of the information collected on the basis of this verification is restricted to the purposes cited above. Any person who knowingly or willingly requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5000. An applicant or participant affected by negligent disclosure of information may bring civil action for damages and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use. Penalty provisions for misusing the Social Security Act at 208 (a) (6), (7 and (8). Violations of these provisions are cited as violations of 42 U.S.C. 408 (a) (6), (7) and (8).



**RA Release**

# LETTER FOR A MEETING ABOUT REASONABLE ACCOMMODATION

Date \_\_\_\_\_

Dear \_\_\_\_\_:

We have received your request for a reasonable accommodation. It would help us make our decision if we could meet with you. If because of your disability you will need special assistance at the meeting, please let us know immediately. You may bring someone to help you to the meeting.

We would like to meet on \_\_\_\_\_.  
[date, time, place ]

If you cannot come at that time, please call \_\_\_\_\_ to arrange  
[name, title, phone number or TDD \_\_\_\_\_]

At this meeting, we will talk about the accommodation you have requested

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[describe issue simply and clearly including specific questions, if any].

Please come ready to talk about the changes you requested. Please bring copies of any information you think might help us understand what you need.

We look forward to meeting with you.

Thank you.

Sincerely,

\_\_\_\_\_  
(Name) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Phone # ) \_\_\_\_\_(TDD#)

**RA Form 2**



# DENIAL OF REQUEST FOR REASONABLE ACCOMMODATION

Date:

To: Name \_\_\_\_\_ Address: \_\_\_\_\_

Dear \_\_\_\_\_:

You requested the following change or reasonable accommodation:

\_\_\_\_\_.

We have denied your request because:

- You do not meet the definition of a person with a disability and we are not required to provide a reasonable accommodation
- Your request is not related to your disability. (lack of nexus)
- We think the accommodation you requested is not reasonable because;
  - It will cost too much money and/or is more work than our staff can do (an undue financial or administrative burden).
  - It will change the fundamental nature of our program.
  - Based on the documentation you provided, we do not believe the accommodation you requested is likely to enable you to comply with the terms of your lease or program requirements.

We decided this because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you disagree with this decision, you may request an informal hearing by writing to the Executive Director at the following address:

\_\_\_\_\_  
within 20 days from the date of this letter.

Sincerely,

(Name) \_\_\_\_\_

(Title) \_\_\_\_\_

(Phone # ) \_\_\_\_\_ (TDD#),

**RA Form 3**





## REASONABLE ACCOMMODATION APPROVAL NOTICE

Date:

To: Name \_\_\_\_\_ Address \_\_\_\_\_

Dear \_\_\_\_\_:

As a result of your request, we have approved your request for the following change or reasonable accommodation:

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[Description, including any terms, conditions and performance expectations and reason for such conditions]

We expect the accommodation to be completed on or about \_\_\_\_\_.

Please call \_\_\_\_\_ if you have any questions.



# **Service and Support Animal Policy**

## **I. Introduction**

The following policy guidelines shall be in effect for how the AHA reviews service and support animal<sup>3</sup> requests by AHA clients with disabilities. The guidelines are not intended to be an exhaustive compilation of rules or policies governing assessment by AHA of requests for service and support animals. If any conflicts exist or arise between these guidelines and guidance issued by the U.S. Department of Housing and Urban Development, or existing or future statutes, regulations, or other legal requirements, the AHA shall follow the other requirements.

In tenant based programs with private landlords it is up to the landlord rather than the AHA to decide whether or not an animal is a service or support animal for such purposes.

## **II. Relationship to Pet Policies**

Service and support animals are not considered “pets.” The AHA’s Resident pet policies do not apply. However, there are still legal limitations related to the care and keeping of service and support animals which will be addressed herein.

## **III. Service Animals under the Americans with Disabilities Act**

Service animals, as defined by the Americans with Disabilities Act (ADA), are dogs<sup>4</sup> that are individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The provision emotional support, well-being, comfort, or companionship are not work tasks for purposes of this definition (though they may provide these benefits as well).

## **IV. Assistance Animals under the Fair Housing Act and Section 504 of the Rehabilitation Act including Support Animals**

Assistance animals have a broader definition than service animals. Under the Fair Housing Act (FHA) and Section 504 of the Rehabilitation Act (Section 504), assistance animals are

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<sup>3</sup> Both service animals as defined under the ADA and support animals as defined in FHEO 2020-01 fall under the category of assistance animals under the FHA and Section 504.

<sup>4</sup> There is a separate provision regarding trained miniature horses.

animals that work, provide assistance, or perform tasks for the benefit of a person with a disability or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.

Assistance animals are often dogs but may be other animals as well. An animal does not need to be trained to be an assistance animal, though some may receive training.

There are two types of assistance animals: (1) service animals, and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this policy as a "support animal").

All service animals meeting the ADA definition are assistance animals under the Fair Housing Act and Section 504 of the Rehabilitation Act. Thus, when considering the FHA and Section 504 analysis in this policy the focus will be on support animals.

## **V. Requests and Continued Keeping of Service and Support Animals**

A client should bring a request to have a service or support animal to the AHA.

### **A. Service Animals under the ADA**

#### **1. Review**

This analysis will be limited to dogs as they are the only service animal under the ADA with the following test.

To perform the service animal review, the AHA may ask:

1. Is this a service animal that is required because of a disability?
2. What work or tasks has the animal been trained to perform?

AHA staff may not ask the above questions if this information is already known to the AHA or when it is readily apparent or has been observed that the animal is trained to do work or perform tasks for an individual with a disability. Staff may not ask about the nature or extent of the individual's disability.

For example, if a staff member has interacted with a resident who is always clearly being guided by a seeing-eye dog, he or she may not ask the resident the above questions as it is clear that the animal is required due to a disability and it is clear what work that the animal is doing. He or she may also not ask questions about the nature or extent of the resident's vision impairment. The animal should be approved as a service animal.

## **2. Denial or Removal of Qualified Service Animal**

AHA may not prohibit the keeping of service animals unless:

1. The animal is out of control and its handler does not take effective action to control it; or
2. The animal is not housebroken; or
3. The individual animal (as opposed to a general animal of its breed or size) poses a direct threat to the health or safety of others, or would cause substantial physical damage to the property of others, that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices, and procedures.

## **B. Support Animals under the Fair Housing Act and Section 504 of the Rehabilitation Act**

### **1. Review**

When an individual requests a support animal they will be provided with a copy of the Request for Reasonable Accommodation Form 1 and the “FHEO Guidance on Documenting an Individual’s Need for Assistance Animals in Housing” document which is attached to FHEO 2020-01 and appended to this Policy.

Requests for support animals are reviewed under AHA’s Reasonable Accommodation Policy as requests for a Reasonable Accommodation (“RA”). Note that as with other RA requests, supporting documentation may be requested where applicable. Additional information relative to support animal requests is set forth below.

Pursuant to FHEO 2020-01 the verification should include:

1. The patient’s<sup>5</sup> name.
2. Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services.
3. The type of animal(s) for which the reasonable accommodation is sought.
  - a. Unique Animals

Animals which are not commonly kept in households (as defined herein) are unique animals.

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<sup>5</sup> While FHEO 2020-01 uses the term “patient” is it possible that the provider may be other than a health care professional if they have sufficient professional and personal knowledge of the applicant to verify the disability and need for the accommodation.

Animals commonly kept in households for purposes of this policy are defined as: a dog, cat, small bird, rabbit, hamster, gerbil, guinea pig, fish, turtle.

In its discretion the AHA may also approve other small, domesticated animals that are traditionally kept in the home for pleasure.

If the request is to keep a unique type of animal, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. Examples include an animal is individually trained to do work or perform tasks that cannot be performed by a dog; Information from a health care professional confirms that allergies prevent the person from using a dog; Information from a health care professional confirms that without the particular animal, the symptoms or effects of the person's disability will be significantly increased.

In addition to the information requested above (B 1. at 1-3). HUD FHEO 2020-01 also suggests the following should be provided when the request is for a unique animal. The AHA will request this information when a request has been made for a unique animal.

1. The date of the last consultation with the patient<sup>6</sup>,
2. Any unique circumstances justifying the patient's need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and
3. Whether the health care professional has reliable information about this specific animal or whether they specifically recommended this type of animal.

b. Online Documentation

Generally, certificates registrations and licensing documents for assisted animals that are generated through websites will not be deemed acceptable verification. The Housing Authority requires reliable documentation as to the fact that a disability exists and the disability related need for the accommodation if it is not obvious or otherwise known. A letter from a legitimate health care professional that provides services over the internet is acceptable when the provider has personal knowledge of the individual's disability and need for the accommodation.

## **2. Denial or Removal of Qualified Support Animal:**

Denials of approval for a support animal are governed by the Reasonable Accommodation policy and the Service and Support Animal Policy. Pursuant to the policy requests will be approved if:

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<sup>6</sup> While FHEO 2020-01 uses the term "patient" is it possible that the provider may be other than a health care professional if they have sufficient professional and personal knowledge of the applicant to verify the disability and need for the accommodation.

1. The subject of the request is a qualified “individual with a disability” as defined therein, and
2. The requested accommodation is related to the disability and is necessary to provide an equal opportunity to use and enjoy the housing, and
3. The requested accommodation is reasonable. A request shall be considered “reasonable” if it does not create an undue financial or administrative burden or constitute a fundamental alteration in the nature of the housing program.

The additional information requested under HUD FHEO 2020-01 and this Service and Support Animal Policy will also be taken into consideration as part of this analysis.

The AHA will prohibit keeping of animals if:

1. The animal is out of control and its handler does not take effective action to control it; or
2. The animal is not housebroken; or
3. The individual animal (as opposed to a general animal of its breed or size) poses a direct threat to the health or safety of others, or would cause substantial physical damage to the property of others, that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices, and procedures; or
4. Allowing the Resident to keep the animal would impose an undue financial and administrative burden on AHA or fundamentally alter the nature of the housing program.

## **VI. Care and Handling for Service and support Animals**

HAs have the authority to regulate service and support animals under applicable federal, state, and local law. (FR Vol 73, No. 208)

Residents must care for service and support animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that service and support animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident’s care or handling of a service and support animal violates these policies, the AHA may withdraw the approval of a particular service and support animal. Upon request the AHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation.

The AHA requires that clients execute a service and support animal agreement to ensure that all parties are aware of the rights and responsibilities with regard to the care and handling of service and support animals under the law. Further, all reasonable lease provisions relating to health and safety apply to service and support animals such as maintaining the premises in a clean and sanitary condition and ensuring that neighbors enjoy their premises in a safe and peaceful manner.

## **V. Appeals for Denial of Service and Support Animals**

Denial of a service and support animal approval will entitle the family to an Informal Hearing. AHA requests to remove a service and support animal from the unit due to violations of this policy, other applicable law and/or lease violating behavior will be governed by the applicable appeal procedure for the program under which the family is assisted.

## **APPENDIX TO SERVICE AND SUPPORT ANIMAL POLICY**



# FHEO Guidance on Documenting an Individual's Need for Assistance Animals in Housing