Procedure for Reasonable Accommodation

Background

PHA must comply with Federal, state and local laws that prohibit discrimination on the basis of disability, including but not limited to the Federal Civil Rights Act (Title VI), the Federal Fair Housing Act (Title VIII), Section 504 of the Rehabilitation Act of 1973 (504) and the Americans with Disabilities Act (ADA). An applicant or resident with a disability may ask for changes in rules, policies, procedures, and methods of communication or may ask for physical modifications to a unit or common area to enable him/her access a building, unit or program. Such changes are referred to as “Reasonable Accommodations.” For the definition, see the definition section at the end of this procedure.

PHA’s Obligation to Provide Reasonable Accommodations

It is necessary to provide an applicant or resident with a disability an equal opportunity to apply for and live in housing. A disability for the purpose of being eligible for consideration for a reasonable accommodation or structural modification is any physical or mental impairment that substantially limits one or more major life activities. See the complete definition at the end of this procedure.

Another aspect of 504/ADA compliance for which Housing is responsible is identifying applicants with sensory or cognitive impairments who need special methods of communication other than the plain language paperwork PHA normally uses to communicate with applicants. It is PHA’s responsibility to communicate in a way that is fully understandable to all applicants and residents. This may require providing material in large type, Braille, or on cassettes for people with visual impairments, providing sign language interpreters for people with hearing impairments and permitting applicants with cognitive impairments to have a friend, relative or advocate present at meetings and in receipt of mailed information to help them understand and remember what is happening.

Evaluating Reasonable Accommodation Requests

PHA must evaluate requests for reasonable accommodations to determine if and how requests can be accommodated. PHA can deny the request only if the request constitutes a fundamental alteration in the nature of the program or constitutes an undue financial and administrative burden. This determination shall be made by PHA’s 504/ADA Coordinator.

The 504/ADA Coordinator

The 504/ADA Coordinator is the person PHA has designated as responsible for ensuring that PHA complies with Federal, state and local laws that protect the rights of people with disabilities and makes sure PHA meets its obligations set forth in these laws.

**Notice to Residents and Applicants**

PHA will provide all applicants/residents written and verbal notice of any obligation to provide individuals with disabilities a reasonable accommodation if they need one as a direct result of their disability. This shall occur at the initial application process, and at each annual recertification.

The procedures below outline how applicants make requests for reasonable accommodations and how PHA must respond. Direct any questions you may have regarding the procedures to the 504/ADA Coordinator.

**STEP 1: Ensure Reasonable Accommodation Packets are available**

1. The Housing Office must have copies of the Applicant Request for a Reasonable Accommodation/ Modification Packet available to be distributed with the application for housing.
2. For Applicants, Packets include:

Request for a Reasonable Accommodation Guide and a Reasonable Accommodation/ Structural Modification Request Form.

1. For the Housing Department, Packets include:

The Certification of Need Form, the Determination Notice, and the Reasonable Accommodation Agreement Form located in the Appendix.

**STEP 2: Respond to Applicant Requests**

1. If an applicant asks for a change in rules, policies, procedures, or physical structures or type of unit because of a disability, the applicant must fill out the Request for a Reasonable Accommodation/ Modification Form. Staff will assist applicants who have difficulty in completing the form.
2. Instruct the applicant to mail the completed Reasonable Accommodation/ Structural Modification Request Form with his/her housing application to the Housing Department.
3. If an applicant asks for a different method of communication or assistance reading or completing the forms, a staff member of the Housing Department must provide the requested assistance (i.e. a copy of the forms in large print, filling out the forms for the applicant, forms in Braille, or a sign language interpreter). If the person requesting the accommodation is a minor, the parent or guardian must fill out the form.

**STEP 3: Send the Applicant Request to the 504/ADA Coordinator**

Make a copy of the Request form for the Applicant’s file and forward the original to the 504/ADA Coordinator.

**STEP 4: Complete and Mail the Certification of Need Form**

The 504/ADA Coordinator will complete the top portion of the Certification of Need form and mail it with the completed Reasonable Accommodation/Structural Modification Request Form to the medical provider listed on the Reasonable Accommodation/Structural Modification Request Form.

Note that the Certification of Need form specifies that the medical provider should not disclose the applicant’s disability or provide his/her medical records.

**STEP 5: Distribute/File Copies of the Forms**

1. Place a copy of all documents in the applicant’s folder.
2. Forward a copy of all documents to the 504/ADA Coordinator.

**STEP 6: Obtain Certification of Need Form from Medical Provider**

1. If you have not received the Certification of Need form within 30 days, notify the applicant to request that he/she follow up with their medical provider.
2. Once the medical provider returns the Certification of Need form, make 2 copies for the applicant file and the 504/ADA Coordinator.

**STEP 7: Review Certification of Need form & complete the Determination Notice**

1. The 504/ADA Coordinator reviews the Certification of Need form and completes the Determination Notice prior to the applicant’s interview.
2. In completing the Determination Notice, the 504/ADA Coordinator must approve or deny the request.
3. If the 504/ADA Coordinator needs clarification regarding the requested accommodation, staff should contact the applicant.
4. A copy of the Determination Notice must be sent to the Housing Department. In addition to written notification, verbal notification, on a case-by-case basis, may also be necessary.

**STEP 8: Interview Process**

1. Once a determination has been made, the Housing Department will discuss the approval/denial with the applicant during the applicant interview process.
2. For approvals, the meeting agenda should include:
3. How the reasonable accommodation will be provided.
4. When the reasonable accommodation will be made.
5. A discussion of alternative solutions if the applicant qualifies for a reasonable accommodation/ modification, but the specific requested change is not possible. For example, an applicant requests to be moved to a specific development. The applicant also requests the widening of a doorframe for his/her unit. Widening the doorframe would require moving a load-bearing wall and this is the only unit available in this development. At a meeting, PHA would recommend another development where the doorframes could be widened or are already wide enough.
6. Signing of the Reasonable Accommodation Agreement. When filling out the form, specify the accommodations/modifications that will be made, the proposed timeline, and any administrative solutions.
7. For denials, the meeting agenda should include:
8. How the determination was made.
9. A discussion of administrative solutions.
10. The process for obtaining a hearing on the determination.
11. Inform the 504/ADA Coordinator of this meeting. The applicant may also bring anyone he/she wishes to the meeting.
12. If the applicant is unable to come to the office to meet because of his/her disability, the meeting must be held in a manner or place that is accessible to the individual with the disability or the applicant may appoint a designee. This can include a meeting by telephone/TTY.

### **STEP 9: Unit Offers**

1. If the reasonable accommodation/modification is approved, the Housing Department will offer an accessible unit that meets the applicant needs.
2. If an accessible unit could not be located, the Housing Department will locate a unit and work with the Property Management department to ensure that the reasonable accommodations/ modifications are made prior to when the applicant moves into the unit.
3. If a unit or common area needs to be modified, the unit or common areas should be modified to provide the maximum number of accessible features possible.

**STEP 10: Document the completed reasonable accommodation/modification**

It is essential to document all reasonable accommodations/modifications requests.

1. Housing will forward information regarding all approved reasonable accommodation /modification requests to 504/ADA Coordinator and the new Manager.
2. The Manager will update PHA database regarding all modified units, specifying the change(s) made.
3. The Manager will note the method of communication to be used if a resident with a disability needs something other than plain language paperwork.
4. The 504/ADA Coordinator will prepare a monthly report of all accommodation/modification requests (denials and/or approvals), status of projects and completions.

**Definitions**

###### **Definition of “Disability”**

###### The definition of disability for the purpose of determining if someone may obtain a reasonable accommodation or physical modification is contained in the FHA, 504 and the ADA.

###### Under all three laws, an individual is “disabled” if he/she has a physical, emotional 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.

###### Physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, AIDS, mental retardation, mental illness and emotional illness.

###### Major life activities include, but are not limited to seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for one self and working.

###### This is not the definition to determine if someone is eligible for public housing based on his/her disability.

**Definition of “Fundamental alteration in the nature of the program”**

Determining whether a request poses a fundamental change in your housing program is not a cost-based test. PHA’s goal is to provide safe and sanitary housing for low and moderate-income tenants.

For example, assume an applicant received a negative report from her current landlord because she was violating his/her lease because the unit was filled with trash. The applicant tells the Housing Department that the unit is unsanitary because he/she cannot clean her unit on a regular basis or empty her trash because she cannot reach the trash chute or open it because of her disability. The resident proposes to solve this problem by having PHA providing housekeeping services.

It is not reasonable for PHA to provide housekeeping services because it would be a fundamental alteration in the nature of the services PHA provides. It is reasonable for PHA to assist her when she becomes a resident by arranging a third party to assist the resident in housekeeping or to arrange for her trash to be picked up at her unit twice a week. The resident must however comply with her lease and the accommodations.

**Forms**

**[Reasonable](http://www.txtha.org/wp-content/uploads/2020/04/RANotice.pdf%22%20%5Ct%20%22_blank)Accommodation Notice
[Request for a Reasonable](http://www.txtha.org/wp-content/uploads/2020/04/RA-Request.pdf%22%20%5Ct%20%22_blank) Accommodation****[Certification of Need for a R](http://www.txtha.org/wp-content/uploads/2020/04/RA-CertofNeed.pdf%22%20%5Ct%20%22_blank)easonable Accommodation
[Reasonable Accommodation](http://www.txtha.org/wp-content/uploads/2020/04/RA-Agree-Res.pdf%22%20%5Ct%20%22_blank) Agreement for Residents
[Reasonable Accommodation](http://www.txtha.org/wp-content/uploads/2020/04/RA-AgreeAppl.pdf%22%20%5Ct%20%22_blank) Agreement for Applicants
[Resident’s Reasonable Accommodation/](http://www.txtha.org/wp-content/uploads/2015/05/Residents-Reasonable-AccommodationStructural-Modification-Notice.pdf%22%20%5Ct%20%22_blank)Structural Modification Notice
[Applicant’s Reasonable Accommodation/](http://www.txtha.org/wp-content/uploads/2020/04/RA-DeterNoticAppl.pdf%22%20%5Ct%20%22_blank)Structural Modification Notice**