



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
HONOLULU, HAWAII 96817

IN REPLY REFER TO:

ADMINISTRATIVE MEMORANDUM

ADMIN. NO. 4
Replaced on April 18, 2019

To: All Offices, Branches, Sections, and Units
From: Hakim Ouansafi, Executive Director 
Subject: **REASONABLE ACCOMMODATION AND MODIFICATION POLICIES & PROCEDURES FOR HAWAII PUBLIC HOUSING AUTHORITY (HPHA)**

I. GENERAL

The purpose of this administrative memorandum is to establish that the Hawaii Public Housing Authority (HPHA) recognizes its obligations to reasonably accommodate individuals with disabilities in all phases of its operations. This includes applicants from housing operated by the HPHA, residents in housing managed by the HPHA, and employment applicants and the employees of HPHA.

This policy supersedes the Reasonable Accommodations and Modification Policies and Procedures adopted by the HPHA Board of Directors on October 18, 2018.

II. POLICY

In accordance with the regulations, and in recognition of the HPHA's obligations, the HPHA's statement of non-discrimination policy is set forth in Resolution No. 18-01 (copy attached).

The HPHA will make Reasonable Accommodations and/or Modifications to rules, policies, practices and procedures to enable an individual with a disability to benefit from the program(s) offered by the HPHA where the individual is an applicant, resident, or employee. The HPHA will make accommodations that are both *reasonable* and *necessary* to afford equal opportunity to an individual with a disability.

It shall be the responsibility of the HPHA or management company retained by the HPHA to explain its Reasonable Accommodations and Modifications Policies & Procedures to all job and housing applicants, residents and employees. Since HPHA is prohibited from assuming any need for Reasonable Accommodations, it is the responsibility of the applicant, resident, or employee to request such an accommodation pursuant to this policy.

A "Reasonable Accommodation" is 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 common and public areas.

A "Reasonable Modification" is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.

"Employee" means an employee of the HPHA.

"Staff" or "staff person" includes employees of HPHA, entities and employees of entities contracted by the HPHA to manage or operate HPHA's housing programs.

Each staff person shall be provided a copy of this reasonable accommodation policy. Each staff person shall comply with the following:

- A. When a staff person receives a request for a Reasonable Accommodation or Modification from an applicant, tenant, or other program participant, the request must be reported as soon as practicable to the staff person's supervisor. The word or phrase "Reasonable Accommodation" or "Reasonable Modification" does not need to be used. Any request for a change to HPHA rules, policies, practices and procedures, or facilities due to a disability may be considered a request for a Reasonable Accommodation;

Examples of Reasonable Accommodations include: requests to have a service/assistance animal, requests to be assigned a parking stall closer to their unit, requests to allow the tenant to purchase and install an air conditioner, requests to allow HPHA to purchase and install an air conditioner, requests to allow the tenant to purchase and install an extra refrigerator, requests for extra key(s) to the common area, requests to transfer to a different unit or property, and requests for Live-In Aides. This list is not exhaustive.

Examples of Reasonable Modifications include: requests for installation of grab bars, requests for higher/lower toilets, requests to install stairs or ramps and/or unit, and requests to have a shower stall/tub installed. A request for an air conditioner to be purchased and installed can also be an example of a Reasonable Modification.

- B. Disclosure or sharing of confidential disability-related information is prohibited, except for the specific purpose of making or assessing a decision to grant or deny a reasonable accommodation or modification request or when disclosure is required by law;
- C. Each staff person must cooperate with HPHA management to effect compliance with the Reasonable Accommodation/Modification Provisions of Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act, as amended, and Title II of the Americans with Disabilities Act. Failure to comply with the Reasonable Accommodations law may result in a violation of fair housing laws and the payment of damages to the complainant;
- D. Each staff member responsible for the implementation of this Policy will be required to sign the acknowledgement form attached to this policy. (Attachment A)
- E. Retaliation against any individual who has exercised their right to request a Reasonable Accommodation/Modification is prohibited.

III. PROCEDURES

It shall be the responsibility of all Office, Branch, Project, and Unit supervisors to disseminate or communicate this policy to all staff in a timely and appropriate manner. The Compliance Office shall have a Section 504/Fair Housing Officer who is responsible for monitoring the implementation of these policies and recommending changes/updates to the HPHA's policy on non-discrimination.

A. Eligibility

In order to be eligible for a reasonable accommodation and/or modification, an individual must be considered handicapped/disabled by federal and/or state law. A handicapped/disabled person or person with a disability is defined as someone who:

1. Has a physical or emotional impairment which substantially limits one or more major life activities (functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive.);

2. Is regarded as having such an impairment; and
3. Has a record of such an impairment.

The manager/supervisor or designated person receiving the request must explain to the individual their responsibility to provide the appropriate request and medical information related to the reasonable accommodation and/or modification request when the disability and/or need for the accommodation and/or modification are not obvious or apparent.

The HPHA should not inquire as to the nature and severity of an individual's disability. The HPHA should, however, explain to the individual the HPHA's rights to request relevant supplemental medical information, if the information submitted does not clearly explain the nature of the disability (for the purposes of verifying that the individual meets the Fair Housing Act's definition of disabled, when it is not "obvious or readily known"), need for accommodation and/or modification, or does not otherwise clarify how the Requested Accommodation and/or Modification will assist the individual.

The manager/supervisor or designated person receiving the request will explain to the individual the HPHA's right to have medical information reviewed by a medical expert of HPHA's choosing and at HPHA's expense.

B. Process

1. A person with a disability does not need to personally make the Reasonable Accommodation and/or Modification Request; the request can be made by a family member or someone else who is acting on his/her behalf. Staff may also assist an individual in completing the request form.

A Reasonable Accommodation and/or Modification Request can be made orally or in writing. It is required that the staff person receiving the oral request, document the request in writing. This will help prevent miscommunication or misunderstandings regarding what is being requested, or whether the request was made.

If an oral request is made to a staff person who is not designated as a person to receive such requests, the staff person will, as soon as practicable, report the request to their supervisor or designated person to follow up with the person orally requesting a Reasonable Accommodation and/or Modification.

2. Verification through a third party is the responsibility of the Asset Management Project, Branch, Section, or Office receiving the request. If additional information is needed, a letter should be sent to the individual requesting the additional information or arranging to meet with the individual. Documentation is important to show the interactive process between HPHA and the individual.

Any request for which the individual's disability is "obvious or readily known" and the nexus between the disability request is also "obvious or readily known", the HPHA shall not require additional verification to approve any requests for Reasonable Accommodation and/or Modification.

The person requesting a Reasonable Accommodation and/or Modification may be asked to sign an authorization form to allow the HPHA to verify the need for an accommodation and/or modification, whether the request is made in writing, orally, or on behalf of another. The person may refuse authorization. If authorization is refused, the request will be reviewed with any information that is available and may be denied due to the HPHA's inability to verify the need for the accommodation and/or modification.

3. Any request for minor modifications, or for which the individual's disability is "obvious or known" and the nexus between the disability and the request is also "obvious or known" may be approved by the Project Manager and submitted to the Compliance Office within 5 working days of that approval, except where a request for reasonable modification would exceed \$1,000.00. Where a request for reasonable modification would exceed \$1,000.00, the Project Manager shall forward that request to the Compliance Office for approval. The Property Manager is not authorized to deny a Requested Accommodation or Modification as the HPHA is obligated to enter into the interactive process which will be coordinated by the Compliance Office.

For example, the approval of grab bars for a mobility impaired person or strobe lights for a hearing-impaired person may be approved by the Project Manager without prior consultation with the Compliance Office. All approved requests, however, must be submitted within 5 working days to the Compliance Office for tracking and compliance monitoring.

4. Any request for a Live-In Aide as a Reasonable Accommodation must be approved by the Compliance Office. A Live-In-Aide is a

person who resides with one or more elderly persons, near-elderly persons or persons with disabilities and who is: (1) determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not be living in the unit except to provide the necessary supportive services. In accordance with this definition, a live-in aide is not a member of the assisted family and is not entitled to the unit as the remaining member of the tenant family. The Property Manager is not authorized to approve or deny a requested Live-In Aide as the HPHA is obligated to enter into the interactive process which will be coordinated by the Compliance Office.

Live-In Aide requests must include the name of the proposed Live-In Aide. The proposed live-in aide must be deemed able to perform the essential functions of their duties, pass the HPHA's screening process and sign the HPHA's live-in aide agreement. All future changes of the live-in aide must be reported to the AMP manager, who will then screen the new proposed LIA, and if approved, management shall notify the Compliance Office of the change as part of the review process and prior to approving of the change in live-in-aides.

5. Any approval for extra keys to the building and/or unit for caretakers to enter the building/unit to help a tenant with their disability must sign HPHA's "Keyholder Agreement" which acknowledges receipt of the key(s) and also acknowledges possible penalties for its misuse.
6. If a person's disability is not "obvious or readily known", the disability must be verified. Once the disability has been verified, the request must be faxed to the Compliance Office to determine whether a request is reasonable and necessary.
7. Upon determination, the Compliance Office will respond in writing at the address listed on the request form or in a manner understandable to the individual within 20 working days from the date of request, unless there is a need for additional verification or a delay in receiving the authorization and/or response from the individual. Approvals of minor modifications delegated to Project Managers in #3 above will be communicated to the individual by the Project Manager.
8. HPHA will make Accommodations and/or Modifications that are both reasonable and necessary to afford an individual with a disability equal opportunity.

9. HPHA does not by law have to approve a request for reasonable accommodations and/or modifications which would result in:
 - a. An undue administrative or financial burden, which means an Accommodation and/or Modification which cannot be accomplished without a substantial financial investment which is prohibited by the nature and size of the program or could be accomplished only with a rent increase (prohibited by HUD) or a reduction in benefits and/or services to other tenants. An undue administrative burden means the Accommodation and/or Modification would not easily be accomplished with existing staff and would require the hiring of additional staff, or
 - b. A fundamental alteration in the nature of the program, which means that management does not have to provide services, which are not presently being provided. In such a case, the individual may obtain service(s) on his or her own.
10. If an Accommodation and/or Modification request falls into one or both of the two categories in #9 above, management will endeavor to identify an equally effective Accommodation and/or Modification on the basis of the individual's need, and not based on preference.

Management may also, where a request is denied for reasons permitted by law, allow the individual to make modifications at their own expense. In some cases, HPHA may require the individual to escrow money so that any modification made can be restored at the conclusion of an individual's tenancy.

11. Approved requests for Reasonable Accommodations and/or Modifications will be addressed within a reasonable time by the appropriate staff, taking into consideration the resources available at the time. The requestor shall be kept informed of the status of any approved requests.
12. HPHA will evaluate, on a case-by-case basis, tenant/applicant's requests to pay for Reasonable Accommodation or Modification requests such as an air conditioner or an extra freezer. When a tenant or applicant specifically requests for HPHA to purchase and install air conditioners, HPHA will agree to purchase and install approved requests unless it is an undue administrative or financial burden. If the tenant or applicant is asking for permission to install their own air conditioner unit, the HPHA will evaluate that request and approve it if necessary. If for some reason the request(s) are denied, the HPHA will evaluate and propose alternatives that are

not an undue administrative and financial burden or alter the fundamental nature of the program.

It is the policy of the HPHA to install or require the use of Energy Star certified equipment or appliances as appropriate.

13. Management will allow service animals essential for a physical or emotional disability and may verify the need for this Accommodation if the requestor's disability is not "obvious or known", or the need for the accommodation is not "obvious or known". The tenant is responsible for the conduct of the service animal at all times in a manner consistent with the lease.
14. If an individual believes that his/her Reasonable Accommodation Request has been improperly handled or denied, the individual should request a reconsideration/and or an informal hearing pursuant to the HPHA's grievance procedure for Reasonable Accommodations. If the reconsideration is denied, and the requestor still feels the decision is incorrect, contact the HPHA's Section 504/Fair Housing Officer at:

Ms. Sarah Beamer
Section 504/Fair Housing Officer
P.O. Box 17907
Honolulu, Hawaii 96817
Telephone: (808) 832-4690
TTY: (808) 832-6083
15. The individual also has the right to file an internal Complaint under HPHA's Nondiscrimination Policy pursuant to Administrative Memorandum No.3 dated October 28, 2014.
16. This reasonable accommodation and modification policy and procedures also applies to employees of HPHA with disabilities that meet the definition of a person with a disability contained in this policy. Employees with disabilities shall, subject to the limitations described in #6 above, be eligible for reasonable accommodations or modifications that will permit them to perform the essential functions of the job.
17. Consideration of all accommodation and/or modification requests shall be made on a case-by-case basis.
18. Individuals who believe they have been discriminated against on the basis of their disability may bring their complaint to the HPHA

Section 504/Fair Housing Officer listed in #11 above, and may also file a complaint alleging discrimination with:

Office of Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W. Room 5204
Washington, D.S. 20410

Or, by completing the on-line complaint form available on the HUD internet site: <http://www.hud.gov>

Employees of HPHA and applicants for employment with HPHA who believe they have been discriminated against on the basis of their disability may also file a complaint alleging discrimination with:

U.S. Equal Employment Opportunity Commission
Roybal Federal Building
255 East Tempie St., 4th Floor
Los Angeles, CA 90012
Telephone: 1-800-669-4000

IV. VIOLATION OF POLICY

Employees of HPHA who fail to comply with this policy and procedures may be subject to disciplinary action, up to and including discharge, in accordance with the respective collective bargaining agreement.

V. IMPLEMENTATION

This policy shall be effective as of the date of approval and shall remain in effect until cancelled or superseded.

Attachment: Acknowledgement (Appendix A)