

# **Reasonable Accommodation Policy**

**Prepared for: North Andover Housing Authority  
One Morkeski Meadows  
North Andover, Massachusetts 01845**

## **Reasonable Accommodation Policy**

Reasonable Accommodation is the practice of making exceptions to policies and/or procedures, alterations to physical space design or layout, or holding an organizational or program standard in abeyance to provide an individual with a disability equal access and full enjoyment of the benefits of the programs administered by the North Andover Housing Authority.

Reasonable Accommodation can pertain to: (1) program applicants, (2) applicants for employment, (3) current program participants and (4) current employees.

The exact nature of the reasonable accommodation varies from case to case. The implementation of an "accommodation" is at the discretion of the Housing Authority based on information volunteered by the individual with a disability. The regulatory requirements for reasonable accommodation can be found in HUD's Final Rule on Section 504 of the 1973 Rehabilitation Act, the Fair Housing Amendments Act of 1988 and in Titles I (Employment) and II (Program Administration) of the Americans with Disabilities Act (ADA) of 1990.

Disability is defined as the impairment of a major life function consistent with the definition found at Appendix B of HUD's Final Rule on Section 504. The Housing Authority is only concerned with the behavioral (functional) limitations of the disability as it pertains to the nature and requirements of the Housing Authority's programs. In all four cases described in the above paragraph, requests for information about the cause (diagnosis) of a disability are not permitted by staff. [Those who bring forward causal information will be required to sign a Release Form that they voluntarily informed the Housing Authority of the nature of their disability.]

### **Reasonable Accommodation and Resident Selection**

The programs of the Housing Authority consist of the provision of affordable housing to individuals and households who are program qualified. Program qualification is primarily based on income. Additional screening standards are used to determine if the individual or household is capable of meeting the requirements of the Rental Lease. The Rental Lease is the contract between the Housing Authority and the individual or household.

It is the responsibility of the program applicant to identify any disability that has relevance to the Housing Authority's screening process. The screening process determines the applicant's ability and willingness to comply with the lease. Based on a request for a reasonable accommodation by an applicant, suspending the use of any aspect of the Housing Authority's screening standards is not an automatic action. Additional information can and often will be required for review by the Housing Authority.

The Housing Authority can request documentation from licensed clinicians and/or therapists that there is a sufficient causal relationship between an individual's disability and the failure to meet the screening standards of the Housing Authority. This documentation requires no description of the causes of a disability. It only seeks to verify that the specific reasonable accommodation is related to and overcomes the functional limitation of a documented disability. Even if this causal relationship is documented, the Housing Authority still reserves the right to accept or reject any reasonable accommodation on the basis of "financial or administrative burden" (Section 504) or "undue hardship" (ADA). In addition, the Housing Authority will never make a reasonable accommodation if the behavior of a resident is determined by the Housing Authority to be a threat to the safety and health of others or the resident. The Housing Authority may request input from experts as to the nature of the threat, but the final determination as to the import of this concern about a resident's behavior resides with the Housing Authority.

### **Reasonable Accommodation and Employment**

Employment at the North Andover Housing Authority is based on proper qualifications and experience that match the essential requirements of the specific job description for the posted position. All applicant evaluation standards are directly related to the position's requirements. If a position requires a medical examination as a contingency of a job offer, it has been established that such an examination is essential to the role of the position within the organization. A drug test is not considered a medical exam and is not subject to reasonable accommodation.

Although the Housing Authority has less than fifteen (15) employees, which is the threshold for certain Section 504 policy and procedural requirements related to personnel administration, the Housing Authority adheres to the guidelines for reasonable accommodation in employment listed below. If feasible -- it does not represent a financial, burden, administrative burden or undue hardship -- the Housing Authority will:

- redistribute marginal job functions among existing positions;
- transfer an employee to an equal or lower position for which their disability is not an obstacle to sufficient performance of essential job functions; and
- will make any "reasonable" physical modification to office and program spaces required to permit the employee to perform their essential duties.

The Housing Authority reserves the right to determine what specific options for reasonable accommodations related to employment it will take as long as the net effect is equal. All action related to reasonable accommodation and employment is on a case by case basis. No prior actions by the Housing Authority are to be considered as precedent for any proposed reasonable accommodations.

## **Reasonable Physical Modification**

In certain cases the reasonable accommodation required is in the form of a physical modification to a unit or program space.

Requests for physical modifications to units must be made in writing to the Executive Director. Unlike the role of a private sector landlord under the Fair Housing Amendments Act of 1988, which requires only that the resident be permitted to make alterations, a Public Housing Authority is considered responsible for making all "reasonable" physical modifications.

The request must provide the basis for the modification and the exact changes being requested. The basis of the request is how the modification will mitigate the functional limitation that is the manifestation of the disability. For instance, in the case of changing cabinet and door hardware because of an individual's limited manual dexterity, the "changing of cabinet and door hardware" is the requested modification and the "limited manual dexterity" is the basis.]

The Executive Director will review the request with the maintenance staff to determine the feasibility and cost of the modification. The Housing Authority may elect an equal alternative that is less costly than the residents request. The Housing Authority may determine that the modification is not feasible. If the lack of feasibility is specific to a unit or program space, then the Housing Authority may propose a transfer to a unit in which the modifications are feasible. In the case of a program or administrative space that requires a physical modification, an alternative program or administrative space, which meets the physical accessibility standards, may be substituted.

In no case, will the Housing Authority make a physical modification it considers to be a "financial or administrative burden" or an "undue hardship".

## **"Reasonable Accommodation" and Communication**

The Authority has contracted with a communication service that provides TDD service on a twenty-four hour a day, seven days a week basis. The telephone number is 1-800 545-1833 Ext. 378.

For the written materials, the Housing Authority has determined that it is a "financial burden" to develop custom materials in braille or on tape for those with sensory impairments. The Housing Authority has determined that it will provide readers on an as needed basis to all program applicants and residents to assist in the review of written program material. Other forms of "reasonable accommodation" related to communication will be considered on a case by case basis.

## **Reasonable Accommodation and Lease Enforcement**

The Rental Lease requires both the Housing Authority and the individual or household who reside in the unit to adhere to basic agreements. In short, the Housing Authority agrees to provide and maintain a unit that meets the habitability standards of the Commonwealth's Sanitary Code and the individual or household who reside in the unit agrees to pay the contract rent, adhere to program requirements, refrain from participation in felonious activities, and respect the rights of other residents to full use and enjoyment of their unit and community space.

Lease enforcement for all the above except rent payment is considered to be grounded in "for cause" enforcement proceedings. A resident may request that a Rental Lease enforcement activity be held in abeyance on the basis of a reasonable accommodation. The Housing Authority will consider a request for a reasonable accommodation related to the lease enforcement process on the following grounds:

- The request for "reasonable accommodation" is made at the first (informal) meeting to discuss the lease violation;
- the resident acknowledges the basis of the lease violation;
- the resident proposes a mitigation strategy to prevent re-occurrence that is acceptable to the Housing Authority;
- the resident agrees that written documentation of the agreed upon mitigation strategy initialed by both parties can be included in the resident file; and
- repetition of the behavior that led to the lease violation is grounds for eviction.

The Housing Authority reserves the right to reject a request for reasonable accommodation as it pertains to the lease enforcement process. If a request for reasonable accommodation is not made at the first (informal) meeting, the Housing Authority will not consider any such request later unless it can be documented that the disability that caused or influenced the behavior was not known at the time of the incident or that an manifestation of the disability was that the resident was not competent to comprehend the policy set forth in this section.

## **Other Aspects of Program Administration**

There are other aspects of program administration that are not explicitly covered in the above sections. The North Andover Housing Authority will consider any request for "reasonable accommodation" of any policy, procedure or practice including assignment of parking spaces, assignment of storage spaces, assignment of mailboxes and pet policy requirements. These requests are subject to the general requirements set forth in this policy including the right of the Housing Authority to reject any request based on case by case circumstances.

## **Complaints of Discrimination**

The policy tenets described above in no manner prevent a program applicant, applicant for employment, current program participants or current employee from filing a complaint of discrimination with the appropriate agency. Complaints related to discrimination in employment should be filed with the Equal Employment Opportunity Commission (EEOC). Complaints to related to program administration for participants should be filed with HUD's Office of Fair Housing and Equal Opportunity (OFHEO).