

LORAIN METROPOLITAN HOUSING AUTHORITY

REASONABLE ACCOMMODATIONS PROCEDURE MANUAL

Policy Statement

The Lorain Metropolitan Housing Authority (LMHA) Board of Commissioners approved a policy statement of non-discrimination in employment or provision of services, and that the Authority shall establish procedures to comply with the Americans With Disabilities Act (ADA) and other relevant regulations. (Resolution 7225 July 15, 1992)

LMHA is committed to ensuring that its policies and procedures do not deny individuals with disabilities the opportunity to participate in or benefit from LMHA's programs, services and activities. LMHA shall not discriminate against individuals with disabilities on the basis of disability in connection with the operations of LMHA's programs, services and activities.

Therefore, if an individual with a disability requires an accommodation such as an accessible feature or modification to a LMHA policy or structure, LMHA will provide such accommodation unless doing so would result in a fundamental alteration in the nature of the program, or an undue financial and administrative burden or would be neither reasonable nor necessary. In such a case, LMHA will discuss with the individual alternative solutions and attempt to make an accommodation that still meet the needs of the individual, but which will not result in a financial or administrative burden or be either unreasonable or unnecessary.

Non-Discrimination Statement

LMHA will comply with all Civil Rights laws, including but not limited to:

- Title VI of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, or national origin (March 2016)
- Title VIII of the Civil Rights Act of 1968 (as amended by the 1974 HCDA and the Fair Housing Amendments Act of 1988), which extends protection against discrimination based on religion, sex, disability and familial status, in addition to race, color, and national origin (March 2016)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973, which describes housing rights of persons with disabilities
- The Age Discrimination Act of 1975 which establishes certain rights of the elderly
- Title II of the Americans with Disabilities Act, otherwise Section 504 and the Fair Housing Amendments govern
- Ohio Revised Code Section 4112.02(H), which prohibits discrimination based on race, color, religion, sex, military status, familial status, ancestry, disability or national origin (March 2016)
- Any other applicable State laws or local ordinances (March 2016)
- Any legislation protecting the individual rights of tenants, applicants, or staff that may subsequently be enacted.

LMHA does not discriminate on the basis of race, color, national origin, sex, perceived gender, religion, age, familial status, disability, ancestry, or military status.

Reasonable Accommodation(s)

An applicant, participant, or resident with a disability may request a reasonable accommodation. A reasonable accommodation is a change, modification, alteration, or adaptation in policy, procedure, practice, program, structure or facility that provides a qualified individual with a disability the opportunity to participate in or benefit from a program (housing or non-housing) or activity, or to ensure equal access to LMHA amenities and services.

Herein, the term “reasonable accommodation” is inclusive of changes in rules, policies, procedures, services and physical modifications.

Information and documentation regarding the policy and procedures for reasonable accommodations will be given to applicants, residents, and program participants during the admission and recertification process and upon request. This manual is available in every LMHA management office and online at www.lmha.org. Notice of the right to reasonable accommodation shall be posted in all management offices and provided with all applications.

The requirement to provide reasonable accommodation is intended to provide, for persons with disabilities, equal opportunity to participate in all housing programs administered by LMHA through modification of policies, procedures, or structures. This policy is not intended to provide greater program benefits to persons with disabilities than to non-disabled residents, program participants, or applicants. It may mean, however, that persons with disabilities will sometimes be treated differently in order to ensure equal access to programs and services.

The decision to approve or deny a request for a reasonable accommodation is made on a case-by-case basis and takes into consideration the disability, the needs of the individual, and the nature of the program or activity in which the individual seeks to participate.

Definition: Person with a Disability

The Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and the Americans With Disabilities Act and their implementing regulations, define an individual or person with a disability.

Section 504’s definition of disability (handicap) is found at 24 CFR § 8.3, the Fair Housing Act definition is at 24 CFR § 100.201, and the ADA definition is found at 28 CFR § 35.104.

Following is the definition of “disability” for the purpose of determining if someone may obtain a reasonable accommodation.

A person with a disability or handicap is any person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such impairment.

The definition of a person with disabilities or handicaps does not include:

- Current alcohol and/or drug abusers whose use of alcohol or drugs prevents him/her from participating in the housing or non-housing program; and
- Current alcohol and/or drug abusers whose participation, by reason of such alcohol and/or drug abuse, would constitute a direct threat the property or the safety of others.

As used in this definition the phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; muscular/skeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “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, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” mean functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

“Has a record of such an impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a recipient as constituting such a limitation; having none of the impairments defined in this section but is treated by a recipient as having such an impairment; or having a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The above definition of disability determines whether an applicant or resident is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of disability is not entitled to a reasonable accommodation under Section 504 and the Fair Housing Act.

This definition of disability relevant to reasonable accommodations is not the operative definition of disability for determining eligibility for Public Housing and Housing Choice Voucher Programs that serve persons with disabilities for housing designated for persons with disabilities, vouchers targeted for persons with disabilities, and eligibility for medical deductions related to having a disability.

Examples of Reasonable Accommodations

Examples of reasonable accommodations include, but are not limited to:

- Making alterations to a LMHA unit to make it accessible so that it can be used by a family member with a mobility impairment;
- Transferring a resident from a unit that cannot be made accessible to a unit that is accessible, or to a unit with features that are otherwise necessitated by a disability, such as greater proximity to a treatment facility (March 2016);
- Widening the door of a community room or public restroom so a person with mobility impairment may use the facility;
- Designating an accessible parking space for a specific resident with a disability;
- Adding or altering unit or building features so they may be used by a qualified applicant or resident with a disability, including but not limited to:
 - Installing strobe light smoke detectors in a unit for a family with a hearing impaired member;
 - Adding structural grab bars in the bathroom;
 - Changing the doorknobs to lever type door handles;
 - Installing a ramp to an entrance;
 - Providing accessible kitchen appliances;

- Providing a time extension for locating a unit because of a lack of accessible units;
- Modifying a bathroom to make it accessible; and
- Lowering the peephole on the door.
- Offering programs and services at locations accessible to individuals with disabilities;
- Making an exception to an LMHA policy such as a no pet rule, or prohibition on transfers within first year or two of lease, or being in compliance with all family obligations as a condition of receiving the accommodation requested (March 2016);
- Making sure that LMHA processes are accessible to applicants and residents with sensory or cognitive impairments. Upon request, LMHA may make adjustments such as the following:
 - Having large type documents, Braille documents, cassettes, or a reader available to an applicant or resident with a vision or cognitive impairment during interviews or meetings with LMHA staff;
 - Making a sign language interpreter available to a qualified applicant or resident with a hearing impairment during interviews or meetings with LMHA staff; and
 - Permitting a qualified applicant or resident with a disability to be accompanied or represented by a family member, friend, or advocate at all meetings and interviews with the LMHA if the individual desires such representation.

Section 504/ADA Coordinator

LMHA has a Section 504/ADA Coordinator that serves an authority-wide function to coordinate all resident, participant, applicant, and employee Reasonable Accommodation (RA) requests.

The Section 504/ADA Coordinator for LMHA is:

LMHA Assistant Director
 1600 Kansas Avenue
 Lorain, OH 44052
 440.288.7422 phone
 440.288.7388 fax
 (800) 750-0750 TDD/TTY
lmha1600@lmha.org email

Reasonable Accommodations Review Committee

In order to assure an independent, consistent, and uniform process for evaluating reasonable accommodation requests, a Reasonable Accommodations (RA) Review Committee was created, whose function is to review all reasonable accommodation requests and make a determination on behalf of LMHA.

The RA Review Committee consists of:

- Assistant Director
- Public Housing Operations Manager
- Housing Choice Voucher Program Manager
- Placement Supervisor

All RA Review Committee members shall participate in **annual** fair housing training with an emphasis on the law regarding reasonable accommodations and modifications to be eligible to continue to serve on the Committee.

All requests for reasonable accommodations and supporting documentation are to be forwarded to the 504/ADA Coordinator or any member of the RA Review Committee with a RA Review Committee cover

sheet. The committee member shall review the request to ensure adequacy of information to make a decision and circulate the request to the Committee for review.

All requests for reasonable accommodations submitted by or on behalf of a resident, participant, or applicant with disabilities shall be reviewed and a decision made in a timely basis regardless of the status of the individual at the time of the request or subsequent to the request. "Status" refers to a resident's compliance with the lease and a participant's compliance with family obligations of the voucher program.

Review of routine requests, such as for installation of grab bars or ramps for individuals whose disabilities are known and obvious, may be circulated to the Committee members for individual review, comment, determination and signature without requiring medical verification. If a Committee member has questions about the request, the Committee shall meet to discuss it. For all other requests, the Committee shall meet on an as-needed basis to ensure timely review and response.

Final determinations regarding requests for reasonable accommodations will be made in the order in which the necessary documentation is received, but in all cases a decision will be made within fourteen (14) business days of receipt of complete information.

The decision of the Committee shall be documented on the cover sheet. The cover sheet, request, and supporting documentation are forwarded to the appropriate department to log the request and subsequent decision and scan into the electronic RA folder. Approved RA requests to transfer will be provided to the Admissions department to be placed on the central transfer list. The supervisor prepares the decision letter and sends it to the requester.

Requests for Reasonable Accommodations: When, How, Where, Who, How Many?

A person with a disability may request a reasonable accommodation *at any time* during the application process, at lease up, residency in public housing or other LMHA-owned/managed housing, participation in any of the voucher programs, or to prevent eviction/termination.

If an applicant, participant or resident indicates that an exception, change or adjustment to a rule, policy, practice, service or structure is needed because of a disability, then LMHA shall treat the information as a request for a reasonable accommodation, *even if no formal request is made*. However, LMHA cannot make a request on behalf of an applicant, participant or resident nor assume that an accommodation is necessary.

Requests may be submitted in writing, orally, or by any other equally effective means of communication at the LMHA Main Office, any LMHA property management office, through the U.S. mail, email, or telephone call. LMHA will ensure that all RA requests are reduced to writing. Whenever possible, requests will be date/time stamped immediately upon receipt of the request.

If needed as a reasonable accommodation, LMHA staff will assist the individual in completing the request form at a location convenient to the requester. Reducing a request in writing will not be cause for any delay in processing an RA request.

Another person acting on behalf of an individual with a disability may make a request for a reasonable accommodation for the individual.

There is no maximum number of requests that an individual with disabilities can submit. Previously denied requests may be resubmitted as additional supporting documentation becomes available or circumstances have changed.

Processing of Requests

Residents of LMHA-owned and managed properties submit requests for reasonable accommodations to the property management office. The Project Manager is responsible for ensuring requests are properly and accurately processed.

Participants of the Housing Choice Voucher Program submit requests for reasonable accommodations to the HCVP at the LMHA Main Office. The HCVP Manager or HCVP Assistant Manager is responsible for ensuring requests are properly and accurately processed.

Applicants for any LMHA programs submit requests for reasonable accommodations to the placement department during the application process either online, over the phone, during the personal interview, or other method. The Placement Supervisor is responsible for ensuring requests are properly and accurately processed.

Requests for reasonable accommodations that are emailed, sent via U.S. mail to the LMHA general mailbox, or submitted to the incorrect department will be forwarded to the correct department.

When LMHA receives a request for a reasonable accommodation, processing of the request will commence as quickly as possible. "Processing" includes, but may not be limited to, sending acknowledgment letters and authorization forms, obtaining necessary information and supporting documentation from the resident and/or appropriate verification sources.

LMHA will issue an acknowledgement of request for the accommodation within seven (7) business days of receipt of the request.

LMHA may require the individual for whom the accommodation is requested to sign an authorization form (as described in the next section "Decision Making Process" on page 7). This may be signed at the time of request or sent along with the acknowledgement letter.

LMHA will contact the requester if, after two (2) attempts, no response is received from the third party who is to provide verification.

If LMHA is unaware of the status of the requestor as a person with a disability and/or the nexus is not clear and the requestor never responds to request for authorization for release of information for third party information, or if the third party does not respond to two (2) contact attempts, then the request shall be denied. The Project Manager, Placement Supervisor, or HCVP Manager is authorized to render a decision to deny the request, log the request and subsequent decision, scan into the electronic RA folder, and prepare the decision letter to send to the requester.

All other accommodation requests shall be submitted to the Reasonable Accommodations Review Committee within three (3) business days of receipt of all necessary verifications and supporting documentation.

Within fourteen (14) business days of receipt of the accommodation request and supporting documentation, the RA Review Committee will render a decision and issue a response indicating whether the request is complete and approved, complete and denied, or incomplete with an indication as to what information is necessary for the RA Review Committee to reach a determination. All denials will include the reason for the denial together with alternative proposals to meet the needs of the requester and information regarding the LMHA Grievance Procedures and process for requesting a hearing.

Upon request, the written notification will be provided in an alternate accessible format.

Decision Making Process for Requests for Reasonable Accommodations

The Reasonable Accommodations Review Committee utilizes the following criteria in decision making:

1. Is the individual an applicant, resident, or participant who is a qualified individual with a disability?

LMHA will provide reasonable accommodations for persons with disabilities who are applicants, residents, and participants of LMHA housing programs. LMHA is not obligated to provide an accommodation for an individual with a disability who is not an applicant, resident or participant.

If the applicant/participant/resident requesting the accommodation is *not* disabled, LMHA may deny the request.

If the disability is apparent or already documented, the answer to this question is “yes”. However, the disability may not be apparent to others. Or, the disability for which the accommodation is being requested may be other than the apparent disability. If the disability is not apparent or not already documented, LMHA will obtain verification that the person is a person with a disability.

LMHA will not require applicants to provide access to confidential medical records in order to verify a disability nor will LMHA require specific details as to the nature of the disability. LMHA will not ask what the specific disability is.

LMHA will have the requester sign a form authorizing the appropriate third party or professional service provider to certify whether or not the requester is a person with a disability as defined in this manual. This form will also be used to verify the nexus between the person’s disability and the requested accommodation.

The following professionals or persons knowledgeable about the nature of the individual’s disability may provide verification of an individual’s disability and the need for the requested accommodation:

- a doctor or other medical professional;
- a peer support group;
- a non-medical service agency; or,
- a reliable third party who is in a position to know about the individual's disability.

2. Is the requested accommodation necessary and related to the disability?

If it is apparent that the request is related to the disability, then the answer to this question is “yes”. To show that requests for accommodations are necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the disability. If it is not apparent, then LMHA will obtain documentation that the request is related to the disability, that a barrier does exist due to the disability, and that the requested accommodation would resolve or eliminate the barrier. Utilizing the form described above, LMHA shall contact a knowledgeable third party or professional service provider to certify this information.

LMHA has the right to sufficient documentation to make a decision, but does not have the right to diagnosis, medical history, or treatment unless necessary to implement a reasonable accommodation request, for example, chemical sensitivity to certain materials.

According to PIH Notice 2010-26 and reaffirmed in PIH Notice 2011-31 “If a PHA receives documentation from a verification source that contains the individual’s specific diagnosis, information regarding the individual’s treatment and/or information regarding the nature or severity of the person’s disability, the PHA should immediately dispose of this confidential information; this information should never be maintained in the individual’s file. If the information needs to be disposed of, the PHA should note in the individual’s file that verification of a disability (as opposed to a specific disability), and special features required was received, the date received and the name and address of the person/organization that provided the verification.”

3. *Is the requested accommodation reasonable?*

In order to be determined reasonable, the accommodation must meet two criteria:

- Would the requested accommodation require a fundamental alteration in the nature of the program? LMHA’s business is housing. If the request would alter the fundamental business that LMHA conducts, that would not be reasonable. For example, LMHA would deny a request to have the LMHA do grocery shopping, waiving inspections or waiving rent requirements for a person with disabilities.
- Would the requested accommodation create an undue financial hardship or administrative burden? This is determined on a case-by-case basis, taking into consideration the circumstances and resources available at the time of the decision. Frequently, the requested accommodation costs little or nothing. A financial burden assessment requires a comparison of available resources against the cost of the accommodation. An administrative burden can be declared when a request would cause a substantial increase in administrative workload or is outside the job function of LMHA employees.

If LMHA deems the requested accommodation unreasonable, then LMHA shall notify the requester of the reason the specific request cannot be fulfilled. The notification shall invite the requester to engage in an interactive process of discussing alternatives via telephone, by visiting the requester at their home, or meeting them at an LMHA management office. When possible, LMHA will propose alternative accommodations in the notification. Through this interactive, good-faith dialogue, it is anticipated that LMHA and the requester will reach a mutually acceptable solution.

The fact that granting an accommodation for one person may set a precedent that other similar requests might follow shall not constitute a sufficient basis for determining that a particular accommodation poses an undue financial or administrative burden or fundamental alteration in the program. Each request is evaluated independently. It is possible that approval of a requested accommodation in the past may constitute an undue financial and administrative burden or fundamental alteration in the program in the future due to changes in circumstances.

When considering requests for accommodations, LMHA shall consult additional guidance, including but not limited to:

- May 17, 2004 JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE regarding REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT (attached as Appendix A); and
- March 5, 2008 JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE regarding *REASONABLE MODIFICATIONS UNDER THE FAIR HOUSING ACT* (attached as Appendix B).

A delay in responding to a request after a reasonable amount of time may be construed as a failure to provide a reasonable accommodation.

Approval of Requests for Reasonable Accommodation

If the individual requesting the accommodation is disabled, if the requested accommodation is related to the disability, if the accommodation removes the barrier the individual experiences, and if the accommodation does not pose an undue financial and administrative burden or a fundamental alteration in the nature of LMHA housing programs, then LMHA shall grant the accommodation without any undue delay.

The time schedule for implementing the accommodation may vary based upon the extent of the accommodation. LMHA shall discuss the implementation with the individual following written notification that the accommodation request has been granted.

Denial of Requests for Reasonable Accommodations

Requests for reasonable accommodations may be denied if:

- The accommodation is not sought for an applicant, participant or resident in one or more of LMHA's housing programs;
- The request was not made by or on behalf of a person with disabilities;
- The person for whom an accommodation is sought is not an individual with disabilities;
- There is no disability-related need for the accommodation being requested (no nexus).
- The requestor does not respond to request for information or fails to complete documents necessary for verification of disability or nexus;
- The knowledgeable third party does not respond to requests for verification;

If the request is denied in these circumstances, the requester will be notified of the reason for the denial, information regarding the LMHA Grievance Procedures, and the process for requesting a hearing.

Requests for reasonable accommodations may be denied and an alternative proposed if:

- Implementation of the accommodation would require a fundamental alteration in the nature of LMHA housing programs;
- Implementation of the accommodation would pose an undue financial and administrative burden on LMHA;
- Implementation of the accommodation would result in a violation of state and/or federal law;
- The request requires a structurally infeasible alteration;
- The request would require the removal or alteration of a load-bearing structural member.

If the request is denied in these circumstances, the requester will be notified of the reason for the denial, alternative proposals to meet the needs of the requester, information regarding the LMHA Grievance Procedures, and the process for requesting a hearing.

Direct Threat

A request is generally not reasonable if the accommodation or modification would constitute a "direct threat" to the health or safety of other individuals or result in substantial physical damage to the property of others, unless the threat can be eliminated or significantly reduced by reasonable accommodation.

However, all requests for accommodation will be evaluated, even from someone who is considered a direct threat or who has caused substantial property damage.

To establish a direct threat, LMHA must have recent, objective evidence of behavior that puts others at risk of harm. Such a determination must rely on an individualized assessment that is based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The assessment must consider:

- the nature, duration, and severity of the risk of injury;
- the probability that injury will actually occur; and
- whether there are any reasonable accommodations that will eliminate the direct threat.

Consequently, in evaluating a recent history of overt acts, LMHA must take into account whether the individual has received intervening treatment or medication that has eliminated the direct threat (*i.e.*, a significant risk of substantial harm). In such a situation, LMHA may request that the individual document how the circumstances have changed so that the individual no longer poses a direct threat.

If the threat is disability related and is mitigated or managed through effective treatment or cooperation with a treatment plan, behavioral barriers to continued participation may be waived as an accommodation.

In the cases of applicants, LMHA may also obtain satisfactory assurances that the individual will not pose a direct threat during the tenancy.

Transfer Due to Reasonable Accommodation

LMHA will not require a resident with a disability to transfer in lieu of providing a reasonable accommodation.

If a resident with a disability is approved for a transfer to another unit as a reasonable accommodation, then LMHA will pay reasonable moving-related expenses or contract with a professional moving company to perform the move for the resident.

LMHA will also pay the reasonable moving-related expenses or provide professional moving services for residents without disabilities who occupy an accessible unit and are required to transfer to a vacant, non-accessible unit, upon notice by LMHA that there is an eligible, qualified resident or applicant with disabilities who requires the accessibility features of the resident's unit.

If the resident with a disability who is approved for a transfer to another unit as a reasonable accommodation is a participant in LMHA's Housing Choice Voucher Program, then LMHA will notify the participating landlord that the Federal and State Fair Housing Laws require LMHA to terminate the Housing Choice Voucher Program contract and the participating landlord to release the Voucher Holder from the lease agreement.

Assistance Animals

Requests for assistance (*i.e.*, companion or service) animals are requests for reasonable accommodations and will be reviewed by the Reasonable Accommodations Review Committee. The LMHA Public Housing Admissions and Continued Occupancy Policy contains the Assistance Animal Policy and lease addendum.

Training

The Section 504/ADA Coordinator will ensure that all appropriate employees receive **annual** training on the LMHA Reasonable Accommodations Procedures and recent developments in the law regarding the affirmative duty to grant reasonable accommodation requests when necessary to afford persons with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas.

In order to be eligible to receive Housing Assistance Payments (HAP), new HCVP landlords must certify completion of the Landlord Briefing, an online program that orients landlords in the rules and regulations of the Housing Choice Voucher Program. The Briefing incorporates training in the housing provider's obligation to comply with the requirements of the Federal and State Fair Housing laws, including those that require them to permit reasonable modifications to existing housing accommodations and make reasonable accommodations in rules, policies, practices or services when necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas.

All HCVP landlords are required to recertify completion of this program every five (5) years.

Grievance Procedure

If the request for reasonable accommodation is denied, the requester has the right to appeal the decision within ten (10) business days of the date of the written notification of the denial. The appeal meeting will be conducted by a person who was not originally involved in the decision to deny. The notice will inform the requester of their right to request a reasonable accommodation to participate in the hearing process.