



Reasonable Modification *and* Reasonable Accommodation Guide

811 Program Background

The Ohio 811 Project Rental Assistance (PRA) Program (hereinafter 811 Program) is a project-based subsidy demonstration funded by the U.S. Department of Housing and Urban Development (HUD) designed to expand the supply of housing for extremely low-income, non-elderly individuals with disabilities while also making available appropriate supports and services under the Ohio Medicaid Plan. Subsidies are used to assist new and existing multifamily housing units that receive any funding from the Ohio Housing Finance Agency (OHFA), most notably the federal Low-Income Housing Credit and HOME Investment Partnership programs.

The 811 Program provides integrated affordable housing opportunities for priority populations identified by the 811 Program state partners (hereinafter 811 Partners) that include the Ohio Housing Finance Agency (OHFA), the Ohio Department of Medicaid (ODM), the Ohio Department of Developmental Disabilities (DODD), and the Ohio Department of Mental Health and Addiction Services (OhioMHAS). OHFA administers rental subsidies and ODM manages the program waitlist. DODD and OhioMHAS assist OHFA and ODM with outreach and marketing of the program to Ohio's prioritized populations.

Purpose of this Guide

The Reasonable Modification and Reasonable Accommodation Guide is intended to provide basic information to Referral Agents about reasonable modification and reasonable accommodation requests. These requests allow prospective and current tenants to pursue adjustments to policies or structural modifications of existing housing if such policies or structures inhibit full enjoyment of the premises for individuals with disabilities. Due to the nature of the 811 Program's target population, reasonable modification and reasonable accommodation requests may serve as important tools for Referral Agents. This guide does not substitute for professional legal advice. Please consult a Fair Housing organization for specific legal questions.

Legal Authority

Several federal laws including the Fair Housing Act (as codified in [42 USC § 3604](#) and promulgated through [24 CFR §§ 100.200-100.205](#)), Section 504 of the Rehabilitation Act of 1973 (as codified in [42 USC § 794](#) and promulgated through [24 CFR §§ 8.20-8.33](#)), and the Americans with Disabilities Act (as codified in [42 USC Chapter 126](#) and promulgated through [28 CFR §§ 36.301-36.311](#)) require owners/property managers to provide reasonable modifications and reasonable accommodations. The HUD 811 Program Guidelines also require owners/property managers to comply with these laws and regulations.

Reasonable Modification

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. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. It is unlawful for a housing provider to refuse to allow a reasonable modification to the premises when such a modification may be necessary to afford persons with disabilities full enjoyment of the premises.

To show that a requested modification may be necessary, there must be an identifiable relationship, or nexus, between the requested modification and the individual's disability.

Example 1:

A tenant, whose arthritis impairs the use of her hands and causes her substantial difficulty in using the doorknobs in her apartment, wishes to replace the doorknobs with levers. Since there is a relationship between the tenant's disability and the requested modification and the modification is reasonable, the housing provider must allow her to make the modification.

Example 2:

A tenant with a handicap asks his or her landlord for permission to install grab bars in the bathroom at his or her own expense. It is necessary to reinforce the walls with blocking between studs in order to affix the grab bars. It is unlawful for the landlord to refuse to permit the tenant from making the modifications necessary to add the grab bars.

Example 3:

An applicant for rental housing has a child who uses a wheelchair. The bathroom door in the dwelling unit is too narrow to permit the wheelchair to pass. The applicant asks the landlord for permission to widen the doorway. It is unlawful for the landlord to refuse to permit the applicant to make the modification.

Paying for Reasonable Modifications

Section 504 of the Rehabilitation Act of 1973 as promulgated through [24 CFR §8.24](#) requires owners to provide reasonable modifications. [§ PRA.212](#) of the HUD 811 Program Guidelines requires that owners participating in the 811 Program comply with Section 504. Therefore, owners/property managers must pay for reasonable modifications under the 811 Program so long as they would not result in a fundamental alteration of the nature of operations or cause an undue financial or administrative burden.

Reasonable Accommodation

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 public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling.

Importantly, a reasonable accommodation to owner/property manager screening policies based on criminal records or poor tenancy or credit histories can be requested if an applicant can demonstrate that (1) his or her history is disability related and (2) the situation/behavior is not likely to recur. It will be up to the owner/property manager to determine whether they feel the request is reasonable.

Some examples of Reasonable Accommodations include:

Example 1:

A housing provider has a policy of providing unassigned parking spaces to residents. A resident with a mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a reasonable accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first-come, first-served basis. The provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.

Example 2:

A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable accommodation. The provider must make an exception to its payment policy to accommodate this tenant.

Example 3:

A housing provider has a "no pets" policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a reasonable accommodation. The tenant explains that the dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. The housing provider must make an exception to its "no pets" policy to accommodate this tenant.

Paying for Reasonable Accommodations

Section 504 of the Rehabilitation Act of 1973 as promulgated through [24 CFR §8.24](#) requires owners to provide reasonable accommodations. [§ PRA.212](#) of the HUD 811 Program Guidelines requires that owners participating in the 811 Program comply with Section 504. Therefore, owners/property managers must, to the extent there is an associated cost for such accommodations, pay for reasonable accommodations under the 811 Program so long as they would not result in a fundamental alteration of the nature of operations or cause an undue financial or administrative burden. Reasonable accommodations are generally changes in an owner/property manager's policies, and therefore are not likely to cause financial burden.

Making a Reasonable Modification or Reasonable Accommodation Request

A Referral Agent should request a modification or accommodation on behalf of the prospective tenant as soon as it appears that such a request is needed. However, requests may be made at any time. For example, requests may be made when an individual is applying for housing, entering into a lease, or occupying housing. In general, Referral Agents should make clear to the housing provider that he or she is requesting a modification or accommodation because of the referred tenant's disability. The Referral Agent should explain what type of modification or accommodation is requested and explain the relationship between the request and his or her disability. Although Section 504 regulations do not require it, it is usually helpful that the request be made in writing and a copy kept, so there will be documentation that the request was actually made in the event of a later dispute. A Reasonable Modification/Reasonable Accommodation Request Sheet can be found in the Appendix of this document.

Refusal of Reasonable Modifications and Reasonable Accommodations

Owners/property managers may deny a reasonable modification or reasonable accommodation if there is no disability-related need for the request. In addition, a request for a reasonable modification or reasonable accommodation may be denied if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider's operations. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors such as the cost of the requested modification or accommodation, the financial resources of the provider, the benefits that the modification or accommodation would provide to the requester, and the availability of alternatives that would effectively meet the requester's disability-related needs.

When a housing provider refuses a requested modification or accommodation because it is not reasonable, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. If an alternative modification or accommodation would effectively meet the

requester's disability-related needs and is reasonable, the provider must grant it. An interactive process in which the housing provider and the tenant discuss the tenant's disability-related need for the requested modification or accommodation and possible alternatives is helpful to all concerned parties because it often results in an effective solution for the requester that does not pose an undue financial and administrative burden for the provider.

Example:

As a result of a disability, a tenant is physically unable to open the dumpster placed in the parking lot by his housing provider for trash collection. The tenant requests that the housing provider send a maintenance staff person to his apartment on a daily basis to collect his trash and take it to the dumpster. Because the housing development is a small operation with limited financial resources and the maintenance staff are on site only twice per week, it may be an undue financial and administrative burden for the housing provider to grant the requested daily trash pick-up service. Accordingly, the requested accommodation may not be reasonable. If the housing provider denies the requested accommodation as unreasonable, the housing provider should discuss with the tenant whether reasonable accommodations could be provided to meet the tenant's disability-related needs, for instance, placing an open trash collection can in a location that is readily accessible to the tenant so the tenant can dispose of his own trash and the provider's maintenance staff can then transfer the trash to the dumpster when they are on site. Such an accommodation would not involve a fundamental alteration of the provider's operations and would involve little financial and administrative burden for the provider while accommodating the tenant's disability-related needs.

Inquiries Owners/Property Managers Can and Cannot Make

It is usually unlawful for an owner/property manager to (1) ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability, or (2) ask about the nature or severity of such persons' disabilities.

Owners/property managers may, however, make the following inquiries, provided these inquiries are made of all applicants, including those with and without disabilities:

- An inquiry into an applicant's ability to meet the requirements of tenancy; and
- An inquiry to determine if an applicant is a current illegal abuser or addict of a controlled substance.

When an applicant or tenant requests a reasonable modification or accommodation, the owner/property manager is entitled to obtain information that is necessary to evaluate if a request may be necessary because of a disability. If a person's disability is obvious or otherwise known to the provider, and if the need for the requested modification or accommodation is also readily apparent or known, then the provider may not request any additional information about the requester's disability or the disability-related need for the accommodation.



Example 1:

An applicant with an obvious mobility impairment who regularly uses a walker to move around asks her housing provider to assign her a parking space near the entrance to the building instead of a space located in another part of the parking lot. Since the physical disability (i.e. difficulty walking) and the disability-related need for the requested accommodation are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested accommodation.

Example 2:

A rental applicant who uses a wheelchair advises a housing provider that he wishes to keep an assistance dog in his unit even though the provider has a "no pets" policy. The applicant's disability is readily apparent, but the need for an assistance animal is not obvious to the provider. The housing provider may ask the applicant to provide information about the disability-related need for the dog.



Reasonable Modification *and* Reasonable Accommodation Request

Note to property management: Please respond to this request in writing within 10 business days

Individual or Tenant Information

Date: _____

Name: _____

Address: _____

City: _____

State: _____

Zip Code: _____

Phone Number: _____

Email Address: _____

Referral Agent Information (if applicable)

Name: _____

Address: _____

City: _____

State: _____

Zip Code: _____

Phone Number: _____

Email Address: _____



Landlord or Housing Provider Information

Name: _____

Address: _____

City: _____

State: _____

Zip Code: _____

Tenant Request

_____ has a disability that substantially limits one or more major life activities
(Name of Individual)
as defined in the Fair Housing Act. _____'s disability requires the following
(Name of Individual)
reasonable modification and/or accommodation to use and enjoy the housing unit:
