DISABILITY DISCRIMINATION IN HOUSING

FEDERAL AND STATE LAWS MAKE IT ILLEGAL TO DISCRIMINATE IN HOUSING ON THE BASIS OF DISABILITY!

A publication of the Advocacy Center

Protection and Advocacy System for Louisiana

ADVOCACY CENTER SERVING PEOPLE WITH DISABILITIES AND SENIOR CITIZENS
WHO HAS A DISABILITY?

A person with a physical and/or mental impairment that *substantially* limits one or more *major life activities*, or

Has a record of such an impairment, or

- Is regarded as having such an impairment.

- *“Major life activities”* include walking, hearing, social interaction, seeing, breathing, self care, learning, or speaking.

- Examples of a “disability” are blindness, hearing impairments, mobility impairments, mental retardation, or mental illness.

- If the impairment can be easily corrected, it is not considered a “disability” under the law. For example, if a visual impairment can be corrected, that impairment would not be considered a “disability.”
WHAT IS DISABILITY DISCRIMINATION?

1. **Intentional Discrimination** – purposeful discrimination against a person because of his or her disability.

2. **Unintentional Discrimination** – action has the effect of discrimination, even if it wasn’t intended. (Requiring proof of income from employment would exclude many people with disabilities who rely solely on social security for income, and would be considered discrimination).

EXAMPLES OF DISABILITY DISCRIMINATION IN PUBLIC & PRIVATE HOUSING

1. **Failure to provide a reasonable accommodation:**
   - “Reasonable accommodations” are changes in rules, policies, practices, or services so that a person with a disability can participate as fully in activities related to housing as a person without a disability.
   - Both public housing authorities and private landlords must provide reasonable accommodations.
   - To get a reasonable accommodation, the tenant MUST request it, and it is best to make the request in writing. If the relationship between the tenant’s disability and the requested accommodation is not obvious, the landlord can ask for proof that the accommodation is needed.
   - A tenant is only entitled to an accommodation that is necessary in affording him an equal opportunity to use and enjoy the home and its surroundings.
• A requested accommodation must be provided unless it is unreasonable, or doing so would constitute an “undue burden” or “fundamental alteration” in the rule, policy, or practice.

• Examples of “reasonable accommodations” by a subsidized housing authority or private landlords would include:
  × Providing auxiliary aids and services to applicants and recipients to aid in the application process and subsequent communications, such as readers, interpreters, and materials in accessible formats;
  × Assisting with lease signing or other arrangements if needed;

  × Allowing a service animal despite a no pet policy;

• Additional examples of reasonable accommodations by public housing authorities would include:
  × Providing assistance, additional time, or a home visit to help an applicant complete an application for housing assistance;
Extending the time to search for housing once a housing voucher is obtained (even beyond the 120 day maximum);
Waiving of a policy against allowing a voucher holder to rent from a relative;
Waiving the requirement that a person wait a year before moving out of a public housing authority jurisdiction if, for example, a person with a disability needs to move to improve access to supportive services;
Allowing an extra bedroom on a voucher to store large pieces of medical equipment, and
Allowing a voucher to be available for use in certain shared housing units, such as group homes or single room occupancy units.

2. Failure to provide appropriate accessibility features in new construction:
   • For most multi-family housing (buildings with four or more units) built and occupied AFTER March 13, 1991, the Fair Housing Act requires that the building be designed with accessibility features.
   • Examples of “accessibility features” include:
     × wide doorways;
     × accessible public and common use areas;
     × lowered controls (such as light switches, electrical outlets, and thermostats);
     × reinforced bathroom walls for the installation of grab bars;
• lowered controls (such as light switches, electrical outlets, and thermostats);
• ample space in kitchens and bathrooms for wheel-chairs to maneuver, and
• accessible routes into and through the unit.
• If there is an elevator, all units must have the features; if there is not an elevator, only ground floor units must have these features.
  • These rules DO NOT cover single-family houses, and do not apply to renovations of any building or facility built for first occupancies before March 13, 1991.
  • The Americans with Disabilities Act covers rental offices, and requires them to be made accessible in most instances.

3. **Failure to allow reasonable modifications:**
   • A “modification” usually refers to a physical change made to a property or premises.
   • Where units are not required to be accessible, a tenant has the right to make reasonable modifications to housing or common areas, such as lobbies, main entrances, and laundry rooms if they are necessary for full use of the housing.
• A modification is required when it is reasonable and necessary to afford a person with a disability full enjoyment of his or her housing.
• Housing that receives federal funding is covered by Section 504 of the Rehabilitation Act, which would require the housing provider to pay the reasonable costs of such modifications.
• What is reasonable will vary, and depend on the extent of the modification, the location of the modification, and the nature of the modification. The test is whether it will impose an undue administrative or financial burden or a fundamental alteration to the landlord’s housing.
• Examples of reasonable modifications include:
  ✴ Installing ramps;
  ✴ Replacing doorknobs with levers;
  ✴ Widening doorways;
  ✴ Lowering kitchen cabinets, and
  ✴ Installing grab bars in the kitchen and/or bath.
• Ordinarily the TENANT is responsible for paying for the modifications.
• If the building receives federal financial assistance, then the landlord may have to pay for certain accessibility features.
4. Failure to provide programs and services in the most integrated setting appropriate:

*People with disabilities are entitled to live in an integrated setting in both public and private housing.*

- Example: accessible units should be distributed throughout projects and sites, rather than having all accessible units in one section of a site.

5. In public housing, a housing authority has the following additional obligations.

- Conducting assessments to determine whether the housing needs of persons with disabilities are being met.
- Ensuring that persons with disabilities are aware of the availability of accessible units and maximize the use of accessible units by individuals needing those features.
- Providing priority for vacant accessible units:
  - to an occupant of the same project, or comparable project under common control, who is living in an inaccessible unit and who needs the accessible unit as a result of his or her disability;
to an eligible applicant on the waiting list having a disability and requiring the accessibility features of the accessible unit; and

to an eligible applicant who does not have a disability (In this case, the owner may require the applicant to agree to move to a non-accessible unit when one becomes available.)

Note: the examples noted above are only examples and are by no means an exclusive list. They are also not guaranteed as being reasonable or necessary, but will depend on each individual’s specific situation.
STRUCTURAL REQUIREMENTS IN PUBLIC AND PROJECT-BASED SECTION 8 HOUSING

1. New Construction or substantial alterations on previously constructed dwellings begun after January 26, 1992:

• Must be accessible to and usable by persons with disabilities according to the Uniform Federal Accessibility Standards (UFAS). Complete guide-lines available at www.access-board.gov/ufas.

• Examples of accessibility features that must be provided:
  × Accessible entrance on an accessible route.
  × Accessible and usable public and common areas.
  × Doors designed for passage must be wide enough to accommodate wheelchairs.
  × Accessible route into and through the dwelling.
  × Light switches, electrical outlets, thermostats, and other environmental controls must be in accessible locations.
  × Bathroom walls must be reinforced for grab bars, grab bars around toilet and shower and/or tub.
  × Lowered countertops, cabinets and drawers.
  × Cleared floor space at fixtures and appliances.
  × Lowered vanity mirror.
• A minimum of 5% of total dwelling units or at least one unit in a multifamily housing project, whichever is greater, MUST be made accessible for persons with mobility impairments.
• An additional 2% of units (but not less than 1) must be accessible for persons with vision or hearing impairments.

Note: This is not a complete list of full accessibility requirements but only a sampling. A complete list and specific measurements and requirements can be obtained from UFAS, which can be printed in its entirety at the website above.
2. **Existing Facilities**

- Must meet program accessibility requirements (when viewed as a whole, facilities must be accessible to and usable by people with disabilities, although not all buildings or dwelling units must be accessible).

- Housing authorities may achieve program access by such methods as transfers to alternate units, assignment of aides or redesign of equipment.

- Structural changes are not required unless there is no other way to provide services.

- Even when structural modifications are required, they may be made on a limited basis, such as one building or meeting room.

**DO YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST IN HOUSING ON THE BASIS OF DISABILITY?**

Please contact Advocacy Center at 1-800-960-7705 (Voice) or 1-866-935-7348 (TTY) or **advocacycenter@advocacyla.org** and speak with one of our intake specialists. [www.advocacyla.org](http://www.advocacyla.org)

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