



# REASONABLE ACCOMMODATION POLICY & PROCEDURES

## Purpose

Federal nondiscrimination laws that protect against disability discrimination cover not only tenants and home seekers with disabilities, but also buyers and renters without disabilities who live or are associated with individuals with disabilities.

The Cumberland Housing Group as a public agency that provides affordable rental housing to eligible families has an obligation to provide reasonable accommodations and modifications necessary to eliminate any barrier to an equal housing opportunity and to permit people with disabilities to take full advantage of the Cumberland Housing Group's housing program and non-housing programs.

## Rights and Obligations Under Federal Law

The Cumberland Housing Group is required to operate its programs in accordance with Federal regulations that prohibit discrimination on the basis of disability, including but not limited to the Federal Civil Rights Act (Title VI), the Federal Fair Housing Act (Title VIII), Section 504 of the Rehabilitation Act of 1973 (504) and the Americans with Disabilities Act (ADA). Therefore, the following policy and procedures is used to fairly and equally implement reasonable accommodations and modifications.

## Definition of "Disability"

An individual with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activities.

- A. Physical or mental impairment:** HUD regulations broadly define physical or mental impairment to include any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more specified body systems, including neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine. It also includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The HUD regulations list examples of physical or mental impairments, which include, but are not limited to: orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; Human Immunodeficiency Virus (HIV) infection; mental retardation; emotional illness; drug addiction (other than addiction caused by current, illegal use of a controlled substance); and alcoholism.

- B. Substantially limits:** HUD says that substantially limits means that the limitation is "significant" or "to a large degree."
- C. Major life activity:** According to HUD, major life activity means activities that are of central importance to daily life, including, but not limited to: seeing, hearing, walking, breathing, performing manual tasks, caring for oneself, learning, speaking, or working.

Also included are individuals who do not now have—or may never have had—a physical or mental impairment that substantially limits a life activity. The FHA’s definition of disability includes an individual with “a record of” impairment, which means someone with a history of—or having been misclassified as having—a mental or physical impairment that substantially limits one or more major life activities. The law also protects an individual who is “regarded as” having such an impairment, a catch-all phrase that includes an individual with—or without—an impairment when he is treated by another as having such an impairment.

## **Definition of a Reasonable Accommodation**

A reasonable accommodation or modification is a change, adaptation, exception, or adjustment to a rule, practice, policy, program, service, and facilities, that may be necessary to eliminate barriers that prevent persons with disabilities from fully participating in housing opportunities in any federally-assisted program or activity including housing. Any change in the way things is customarily done that enables a person with disabilities to enjoy housing opportunities or to meet program requirements is a reasonable accommodation.

It is unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling, public and common use areas.

Reasonable accommodation or modification may also include any structural changes that may be necessary in order for the person with a disability to use and enjoy a dwelling, including public and common use spaces, or participate in the federally-assisted program or activity.

When such accommodations are granted, they do not confer special treatment or advantage for the person with a disability; rather, they make the program accessible to them in a way that would otherwise not be possible due to their disability. An applicant or resident family that has a member with a disability must still be able to meet essential obligations of tenancy.

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.

Examples of Reasonable Accommodations & Modifications include, but are not limited to:

- Permitting an applicant to submit a housing application via a different means;
- Assigning an accessible parking space for a person with a mobility impairment;
- Permitting a resident to transfer to a ground-floor unit;
- Installing strobe-type flashing light smoke detectors in a unit for a family with a hearing-impaired member;
- Installation of a ramp into a building;
- Lowering the entry threshold of a unit;
- Changing the doorknobs to lever-type door handles;
- Adjusting a rent payment schedule to accommodate when an individual receives income assistance;
- Adding a grab bar to a resident’s bathroom;
- Permitting an assistance animal in a “no pets” building for a person who is deaf, blind, has seizures, or has a mental disability.
- Providing accessible kitchen appliances;

- Making large type documents, Braille documents, audio recordings or a reader available to an applicant or resident with a vision impairment during interviews or meetings with the Cumberland Housing Group staff;
- Making a sign language interpreter available to an applicant or resident with a hearing impairment during interviews or meetings with the Cumberland Housing Group staff;
- The Cumberland Housing Group participates in a State sponsored Relay System capable of providing two-way communications with the hearing impaired. The Relay System telephone number is displayed in the office lobbies, on the application and the cover of the Residential Lease Agreement.
- Permitting an applicant or resident to be accompanied or represented by a family member, friend or advocate at all meetings and interviews with the Cumberland Housing Group if the individual desires such representation;

## **Notification to Applicants and Residents**

The Cumberland Housing Group will reference the ability to request a Reasonable Accommodation on the application for housing and in the residential lease. It will post the Reasonable Accommodation Policy publicly in all of its offices. The Request for Reasonable Accommodation form will be on its website and available in all offices.

## **The Compliance Coordinator**

The Compliance Coordinator is the person that The Cumberland Housing Group designates as responsible for ensuring that the Cumberland Housing Group complies with and meets its obligations under Federal, State and Local laws that protect the rights of people with disabilities.

The Cumberland Housing Group must evaluate requests for reasonable accommodations to determine if and how requests can be accommodated. The Cumberland Housing Group can deny the request if the request constitutes a fundamental alteration in the nature of the program or constitutes an undue financial and administrative burden. The determination to grant a reasonable accommodation shall be made with the concurrence of the Director of Property Management Services and the CEO. Any determination not to grant a reasonable accommodation shall not be made without the concurrence of the Director of Property Management Services, the CEO and the Cumberland Housing Groups legal counsel.

## **Submitting a Request for a Reasonable Accommodation**

Not all persons with disabilities will have a need to request a reasonable accommodation. However, all persons with disabilities have a right to request or be provided a reasonable accommodation at any time.

Although an applicant or resident isn't entitled to receive a reasonable accommodation unless he requests one, it isn't required that a request be made in a particular manner or at a particular time. A resident or applicant makes a reasonable accommodation request whenever he makes it clear to the housing provider that he's requesting an exception, change, or adjustment to a rule, policy, practice, or rule because of a disability. An applicant doesn't have to mention the words "reasonable accommodation". Furthermore, the request needn't come directly from the person with the disability; the request may be made by a family member or someone acting on his/her behalf.

Cumberland Housing Group Form #148A - Request for a Reasonable Accommodation is to be made available for those requesting a Reasonable Accommodation. If assistance is needed in

completing the form, staff will assist the requestor at the time of the request. The request is not required to be submitted in writing or for the person making the request to use our form. If a resident refuses to put his request in writing or use your preferred forms, Cumberland Housing Group staff should fill out the forms themselves to document the request and how it was handled. Staff cannot refuse to receive or consider a reasonable accommodation request just because the applicant or resident won't follow our formal procedures.

If the requestor asks for a different method of communication or assistance reading or completing the forms, he/she can ask for assistance. A member of the management staff must provide the requested assistance (i.e., providing a copy of the forms in large print, forms in Braille, or a sign language interpreter). If the person requesting the accommodation is a minor, the parent or guardian must fill out the form.

If applicants or residents are unwilling to disclose the fact that they have a disability, or they would prefer not to discuss the observed disability the Cumberland Housing Group will not be able to make reasonable accommodations.

### **Processing the Request for a Reasonable Accommodation**

Once a staff member has been made aware of and/or received a Request for a Reasonable Accommodation, the completed Request for a Reasonable Accommodation form is to be date stamped as soon as it is received and forwarded immediately to the Compliance Coordinator for processing.

The Compliance Coordinator will review the request using the Cumberland Housing Group Form #148B - Agency Review form. If possible, a determination will be rendered within 5 business days of receiving the request. If additional time will be needed due to the need for additional documentation, evaluations, etc. the Compliance Coordinator will communicate this information to the requestor prior to the end of the initial 5-day period and once each week until a determination has been rendered.

### **Verifying Disability**

The Cumberland Housing Group is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation or modification may be necessary because of a disability.

If a person's disability is obvious, readily apparent, or otherwise known to the Cumberland Housing Group, and if the need for the requested accommodation or modification is also readily apparent or known, then the Cumberland Housing Group may not request any additional information.

If the disability and/or the disability-related need for the requested accommodation or modification is not known or obvious, the Cumberland Housing Group may request only information that is necessary to evaluate the disability and/or disability-related need for the accommodation. This information may be from the individual making the request, a medical professional, a peer support group, a nonmedical service agency, or a reliable third party who's in a position to know about the individual's disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability isn't necessary for this inquiry and may be inappropriate.

If it is necessary to obtain such information, the Cumberland Housing Group Form #149 – Verification of Disability form will be used to request a record of the limited information. This form will be forwarded to the medical, service or other provider listed on the Reasonable

Accommodation Request form or otherwise provided by the requestor for completion. Note that the Disability-Certification of Need Form specifies that the medical provider should not disclose the resident's disability or provide his/her medical records.

If the form has not been returned within 7 calendar days, contact is to be made with the providers office to assure receipt of the documents. This is to be repeated in an additional 7 days if necessary. If no response has been received within 15 days, contact the resident to request that he/she follow up with their medical provider.

Not everyone who has an impairment will qualify for the disability protections. The definition of disability requires that the impairment substantially limit one or more major life activities, which means that it has a significant impact on activities that are central to daily life, such as seeing, hearing, walking, or caring for oneself.

### **Verifying Accommodation is Related to Disability**

Is the requested accommodation related to the disability? If it is apparent that the request is related to the apparent or documented disability, the answer to this question is yes. If it is not apparent, the Cumberland Housing Group will obtain documentation that the requested accommodation is needed due to the disability. The Cumberland Housing Group will not inquire as to the nature of the disability. The Cumberland Housing Group may request to be shown how the requested accommodation enables the individual to access or use the programs or services.

### **Determination of Reasonable**

In order to determine if the requested accommodation is reasonable, the accommodation must meet two criteria:

- 1) Would the accommodation constitute a fundamental alteration? The Cumberland Housing Group's business is housing. If the request would alter the fundamental business that the Cumberland Housing Group conducts, that would not be reasonable. For instance, the Cumberland Housing Group would deny a request to have the Cumberland Housing Group do grocery shopping for a person with disabilities.
- 2) Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, the Cumberland Housing Group may request a meeting with the individual to investigate and consider equally effective alternatives.

### **Responsibility for Cost**

Reasonable accommodations must be provided and paid for by the housing provider unless providing them would be an undue financial and administrative burden or a fundamental alteration of the nature of its service, program, activity, goods, services, facilities, privileges, advantages, or accommodations. In such cases, the provider is still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the particular recipient and/or constitute a fundamental alteration of the program.

The Cumberland Housing Group is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program. If an undue burden or fundamental alteration exists, the recipient is still required to provide any other reasonable accommodation up to the point that

would not result in an undue financial and administrative burden on the particular recipient and/or constitute a fundamental alteration of the program.

Housing providers may not require persons with disabilities to pay extra fees or deposits or place any other special conditions or requirements as a condition of receiving a reasonable accommodation. The Cumberland Housing Group is prohibited from refusing to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

If more than one accommodation is equally effective in providing access to the Cumberland Housing Group's programs and services, the Cumberland Housing Group retains the right to select the most efficient or economic choice.

### **Reasonable Accommodation Determination**

If assistance is needed in making the determination, or there are concerns the request may be a fundamental alteration in the nature of the program, or may constitute an undue financial and administrative burden, the Compliance Coordinator will consult with other resources such as the Director of Property Management Services, Director of Maintenance Services, an Architect, HUD, etc. The Compliance Coordinator shall make the final determination in these cases.

Once a determination has been made, the Compliance Coordinator will prepare and deliver a Reasonable Accommodation Determination Letter CHG form #148C to the requestor by way of hand delivery, email or US Postal Service. The Reasonable Accommodation Determination Letter form #148C will also be used to notify the requestor that additional information is needed or to schedule a meeting to discuss alternatives to the request.

The letter will provide information as to whether the requestor is qualified as disabled, the accommodation is related to the disability and whether the accommodation would constitute a fundamental alteration and/or would create an undue financial hardship or administrative burden. This letter will also contain information as to when or how the accommodation will be provided if approved. Information on how to request a meeting to discuss the decision will also be included.

### **Rejecting Requests**

The Cumberland Housing Group can deny a request for a reasonable accommodation or modification for the following reasons

- if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation or modification.
- if providing the accommodation or modification would impose an undue financial and administrative burden on the Cumberland Housing Group or
- it would fundamentally alter the nature of the Cumberland Housing Group's program.
- The request would enable a tenant to materially violate essential lease terms will not be approved, i.e., allowing nonpayment of rent, destruction of property, disturbing the peaceful enjoyment of others, etc.

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 accommodation, the financial resources of the development, the benefits that the accommodation would provide, and the availability of alternatives that would effectively meet the resident's disability-related needs. If an undue burden or fundamental alteration exists, the Cumberland Housing Group is still required to provide any

other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the Cumberland Housing Group and/or constitute a fundamental alteration of the program.

When the Cumberland Housing Group denies a requested accommodation or modification, we will discuss with the requester whether there is an alternative accommodation or modification 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. As part of this interactive process, the Cumberland Housing Group recognizes that the individual requesting the accommodation or modification is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective to meet a disability-related need.

### **Communications to Discuss Preliminary Determination**

During the completion of the agency review if the answers to steps #1-3 are indicated as "No", or step #4 is marked "yes", then the Request for Reasonable Accommodation is preliminarily denied. At this time, the requestor is to be contacted to explain the reasons that the accommodation will potentially be denied and thus providing the requestor and the Cumberland Housing Group the opportunity to discuss and/or provide additional information or solutions.

The requestor may request a meeting with the Compliance Coordinator to discuss the determination decision and the factors that were used in the decision making such as: How the determination was made; a discussion of administrative solutions; how and when the reasonable accommodation will be provided if approved and the process for grieving the determination or filing a complaint.

The requestor may bring anyone he/she wishes to the meeting. If the requestor is unable to come to the office to meet because of his/her disability, the meeting must be held in a manner or place that is accessible to the individual with the disability or the requestor may appoint a designee. This can include a meeting by telephone/TTY, videoconferencing or teleconferencing technology.

### **Implementation of Accommodations/Modifications**

It is important that reasonable accommodations/modifications be made as expeditiously as possible to meet the needs of those with disabilities.

- A. The Cumberland Housing Group must make any approved reasonable change in a rule, policy, procedure or method of communication within 7 days of receiving the Request for Reasonable Accommodation unless otherwise agreed by the Cumberland Housing Group and requestor.
- B. If the change involves a minor physical modification (installing grab bars, handrails, lowering cabinets, etc.) and costs less than \$1,000.00, the work must be completed within 30 days of the Reasonable Accommodation /Structural Modification Agreement being signed.
- C. If the change involves making a major structural change to a unit or common area (widening doorways, putting in a roll-in shower, putting in a ramp, etc.), costing over \$1,000.00, the work must be completed within 60 days, or in accordance with a construction schedule, unless something unforeseen occurs.

- D. All physical modifications must meet the requirements of the Uniform Federal Accessibility Standards (UFAS) unless in order to meet the needs of the resident it is necessary to depart from UFAS or it is structurally impossible to meet UFAS, but a physical change will meet the needs of the resident.

### **Mobility Accessible Unit**

The Cumberland Housing Group will work closely with local organizations and resources which have exposure to persons with disabilities to assure that information on available accessible units reaches otherwise qualified individuals with disabilities who need the features of those units.

Whenever a unit that meets the requirements of the Uniform Federal Accessibility Standards (UFAS) or HUD's Deeming Notice for a person with a mobility disability becomes available for occupancy, the Cumberland Housing Group shall first offer the unit to a qualified individual with disabilities currently residing in a non-accessible unit in the same project or comparable projects, under common control, who requires the accessible features. If there are no such persons currently residing in the recipient's projects, the recipient shall then offer the unit to the next available qualified individual with disabilities on its waiting list, provided that the person requires the accessibility features of the unit. The Cumberland Housing Group shall skip over applicants without disabilities on the waiting list to offer the unit to the next qualified individual who requires the unit's accessibility features. The need for the unit will be documented using the Cumberland Housing Group Form #149 - Disability-Certification of Need form.

If no qualified applicant with disabilities is identified from within the Cumberland Housing Group developments or waiting lists, then the Property Manager will be responsible to reach out to various resources and will complete the Cumberland Housing Group Form #147 Nonqualified Use of a Handicapped Accessible Rental Unit – Part I as documentation that efforts were made to house qualified individuals.

If no qualified applicant with disabilities requires the accessible features of a unit, and the recipient places a family where none of the family members have disabilities in that unit, the recipient may include language in the lease requiring this family to agree to move to a non-accessible unit, as soon as one becomes available that otherwise meets the family's needs. The family will be required to execute the Cumberland Housing Group Form #147 Nonqualified Use of a Handicapped Accessible Rental Unit – Part II form.

### **Office Documentation**

When all activities relating to the Reasonable Accommodation Request has been completed, the Compliance Coordinator will be responsible for ensuring that all documentation is in order and in a dedicated file folder. Documentation includes all forms, written communications, emails, notes, copy of work orders and purchase orders. The folder shall be labeled with the development name/unit number/tenant last name and maintained in a common file cabinet location. The Cumberland Housing Group database is to be updated regarding all modified units, specifying the change(s) made. The Compliance Coordinator will forward a copy of Form #148 A, B and C to the respective property manager for placement in the tenant file.