



# **HAWAI‘I CIVIL RIGHTS COMMISSION**

## **KOMIKINA PONO KĪWILA O HAWAI‘I**

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### **REASONABLE ACCOMMODATION/MODIFICATION IN HOUSING**

A person with a disability may ask for a reasonable accommodation or a reasonable modification in housing. This may involve exceptions to rules, permitting physical changes to the residence, or other accommodations necessary to afford the person with a disability equal opportunity to use and enjoy a housing accommodation, including the public and common use areas. For more information about assistance animals in housing, please refer to the flyer “Assistance Animals as a Reasonable Accommodation in Housing,” and Disability Communication Access Board’s publication on Assistance Animals.

#### **WHO IS A PERSON WITH A DISABILITY?**

A person with a disability is a person who has a physical or mental impairment which substantially limits one or more major life activities. The person in need of an accommodation/modification can be a resident or a guest.

#### **DOES A RESIDENT NEED TO MAKE A REQUEST FOR AN ACCOMMODATION/MODIFICATION IN WRITING?**

No, a request can be made verbally, to the housing provider or their representative or agent. However, the resident, or someone acting on behalf of the person with a disability, must make a request.

#### **WHAT INFORMATION MAY ONE REQUEST FROM A PERSON REGARDING AN ACCOMMODATION FOR A DISABILITY?**

If the person who requested a reasonable accommodation has a disability that is obvious and if the need for the requested accommodation is apparent, the housing provider may not request any additional information.

If the disability of the individual requesting the accommodation is not obvious, a housing provider, including an AOA, may ask a resident to provide information from a treating health care professional, mental health professional, or social worker that verifies the person has a disability (as defined above), and that the accommodation is necessary to afford a person with a disability equal opportunity to use and enjoy a housing accommodation, if the disability-related need is not obvious. A resident cannot be asked to provide access to health care providers, or any details regarding the diagnosis, nature of the disability, symptoms or medical records.

#### **HOW QUICKLY MUST A HOUSING PROVIDER RESPOND?**

A prompt response is required, and unjustified delay may be deemed a failure to accommodate. The process is an interactive process and both the disabled individual (or representative) and housing provider must participate.

#### **WHO BEARS THE COST OF A REASONABLE MODIFICATION THAT ENTAILS A CHANGE TO A HOUSING UNIT?**

The resident bears the cost of any physical changes to a unit and may be required to return the unit to its original condition upon departure. If the housing provider received federal funds, the provider 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.

### **CAN A REASONABLE ACCOMMODATION OR MODIFICATION REQUEST BE DENIED?**

A reasonable accommodation request may be denied if it imposes a fundamental alteration in the nature of the program or if it causes an undue financial burden. If a housing provider or AOA determines that a reasonable accommodation will be denied, they must engage in the interactive process with the resident to explore how an accommodation can be granted and possible alternatives.

### **EXAMPLES OF REASONABLE ACCOMMODATIONS OR MODIFICATIONS**

There is no comprehensive list of accommodations, and it will depend on each person's request, and each request must be considered individually. Some examples of reasonable accommodations are:

- Provision of an ASL interpreter for a deaf owner or tenant at a board meeting
- Provision of an assigned parking spot near a person's unit for a person with a mobility impairment, even if the garage or lot is first come first served and has no assigned spots.
- Waiver of a guest fee for a live-in health aide for a tenant with a disability
- Construction of a ramp to the unit or within a unit for a person with a disability
- Addition of grab bars in bathroom

### **DO THE ADA TITLE II AND III REGULATIONS AFFECT REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING LAWS?**

No. The ADA applies to public accommodations. However, state and federal housing laws apply.

### **RECENT ISSUES: MUST A RESIDENT WEAR A MASK IN THE COMMON AREAS?**

Due to the COVID-19 pandemic and local governmental emergency orders, masks are required in public areas, including common areas of housing. If a person with a disability requests an exception due to a disability, the housing provider and requestor are required to participate in the interactive process to determine whether it may be an undue burden for the housing provider when weighing one individual's request against public health concerns of other residents. Discussion could include alternatives such as other types of masks or allowing use of an elevator only if no one else is inside. Potential accommodations are not limited to these examples.

### **CONTACT INFORMATION:**

If you believe you have been subjected to discrimination and want to file a complaint, or if you want additional information, contact:

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Website: <http://labor.hawaii.gov/hcrc>

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*This fact sheet is a general summary of the state's laws and does not have the force or effect of administrative rules or Hawai'i laws. If there are any inconsistencies, the rules and Hawai'i law will control.*

*Further guidance regarding the federal Fair Housing Act may be found at [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opportunity/fair\\_housing\\_rights\\_and\\_obligations](https://www.hud.gov/program_offices/fair_housing_equal_opportunity/fair_housing_rights_and_obligations)*