



Fitchburg Housing Authority

Reasonable Accommodation Policy &

Procedures Manual



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PREAMBLE

The Fitchburg Housing Authority (“Housing Authority”) is dedicated to ensuring that persons with disabilities are not discriminated against on the basis of disability either physical and/or mental in connection with the Housing Authority’s programs, services and activities.

If a person with a disability requests an accommodation to an existing rule, policy, practice, or service in order to have an equal opportunity to use a dwelling unit or enjoy the benefits of participating in the Housing Authority’s services, the Housing Authority will provide the accommodation with no fees, charges or application fees directed towards such request.

While the Housing Authority is not required to make changes that would fundamentally alter the program or create an undue financial and administrative burden it does want to ensure to the best of its ability that those with disabilities are able to participate in its housing programs and services.



PART A: GENERAL REASONABLE ACCOMODATION DEFINITIONS & POLICIES

CHAPTER 1: INTRODUCTION

1.1 General Statement of Reasonable Accommodation in Housing Policy

A. This policy explains the framework used to determine whether a person is eligible for a reasonable accommodation in housing (RAH) and sets forth the criteria and the process by which the Fitchburg Housing Authority (“Authority”) shall fulfill its legal obligations to reasonably accommodate the needs of qualified disabled housing applicants, tenants, voucher holders and other recipients of Authority housing, programs and services. Reasonable accommodations can include change in policy, transfers, use of communication aids and modifications to structures. These guidelines are not intended to be an exhaustive compilation of rules or policies governing the Authority’s handling of RAH requests.

B. The FHA does not intend this policy to enlarge the Authority’s legal obligations under applicable housing laws and regulations as set by the U.S. Department of Housing and Urban Development (“HUD”), and/or the Massachusetts Department of Housing & Community Development (“DHCD”). if any conflicts exist or arise between this policy and guidance issued by HUD and/or DHCD or any existing or future statutes, regulations, or other legal requirements at the state, federal, or local level, the Authority will adhere to the other requirements if they legally control the Authority’s actions.

C. The Authority intends the procedures in this policy to provide a reasonable balance between informality and structure. Informality allows Authority staff to respond quickly to a request for accommodation/modification. Informality also can encourage a hospitable interactive discussion with people seeking accommodation/modification unburdened by formal structure. More formality can slow down Authority’s response and be less hospitable. However, a more formal process can also provide better assurance that the Authority’s response is informed, correct, and well documented. In general, this policy tries for a balance by providing a faster, less formal process for approving requests and a more formal process for denials.

1.2 Authority’s Commitment to Reasonable Accommodations in Housing Policy

A. The Authority does not discriminate on the basis of race, sex, color, religion, national origin, ancestry, sexual orientation, age, familial status, or physical or mental disability in the access or admission to its programs or employment, activities, functions or services.

B. The Authority is committed to ensuring that it follows not only the letter of the applicable law and regulations regarding RAHs but also the spirit of such laws and regulations to ensure those with physical and mental disabilities have full and equal access to all of the housing programs and services offered by the Authority.



C. The Authority's commitment to ensuring full and equal access for those with physical and mental disabilities also extends to veterans of the United States' various military branches.

1.3 Policy and Procedure Commitment to Ensure Housing Access

A. The Authority is committed to ensuring that its policies and practices do not deny individuals with disabilities the equal opportunity to access, participate in, or benefit from, the Authority's housing services, programs, and facilities, nor otherwise discriminate against individuals with disabilities in connection with the operation of the Authority's housing services or programs.

B. If an individual with a disability requires a reasonable accommodation in housing, i.e., a change to its rules, policies, practices, or services, or a reasonable modification, i.e., a physical alteration to a housing unit or public or common use area, the Authority will provide such a reasonable accommodation/modification, unless doing so would result in a fundamental alteration to the nature of the program or an undue financial and administrative burden.

C. If the reasonable accommodation request would result in a fundamental alteration to the nature of the applicable housing program then the Authority will engage in an interactive process with the individual or person acting on the individual's behalf to make another accommodation/modification that would not result in a fundamental alteration or financial and administrative burden.

1.4 Non-Retaliation-Discrimination Policy

A. The Authority will not discriminate or take any retaliatory action against an applicant, resident or voucher holder who has requested an RAH on the basis of a disability, or who has assisted or encouraged any other person to make a request.

B. The Authority will not discriminate or take any retaliatory action against an applicant, resident or voucher holder who has exercised his/her right of internal appeal, filed an administrative agency complaint, or sought judicial review regarding an RAH request, or who has assisted or encouraged another person to do so, or who has assisted in the investigation of an RAH claim

1.5 Policy and Procedure Application for Housing Not Employment

The Authority's RAH policy and procedures only apply to its housing programs and related services and does not encompass issues relating to disabilities and employment. Please refer to the Authority's reasonable accommodation in employment policy for further information.



1.6 Payment Responsibility for Reasonable Accommodations

- A. **No Application Fees:** The Authority will not charge applicants, tenants, or voucher holders' fees or costs for filing of reasonable accommodation requests (s).
- B. **No Implementation Charges or Fines:** The Authority will not mandate any charges, Fees, costs or demand special deposits as a condition of receiving any reasonable accommodation.
- C. **Authority Responsible for Reasonable Accommodation Expenses:** (i) Regardless of the type of reasonable accommodation the Authority is solely responsible for any direct or indirect costs of such reasonable accommodation. (ii) However, the Authority is allowed to seek grants or other payments to help defer such costs as long as such payments are not derived from applicants, tenants or voucher holders.

1.7 How to Use and Apply the Authority's Reasonable Accommodation Policy

- A. Employees tasked with the implementation, taking or processing reasonable accommodation requests must first have a general understanding of the terms used and then reasonable accommodation application process. Such employees must also understand the importance of recording requests for reasonable accommodations and the communication process with those who submit reasonable accommodation requests.
- B. The Executive Director may promulgate specific process to implement this policy.

1.8 Definitions and Terms

- A. The following are the definitions and terms that are used in this RAH policy:
 - 1. The term "ADA" shall mean the Americans with Disabilities Act, as amended.
 - 2. The term "FHA" shall mean the Fair Housing Act of 1968, as amended.
 - 3. The term "*individual with a disability*", shall mean: (i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual; (ii) A record of such an impairment; or (iii) Being regarded as having such an impairment.
 - 4. The term "Policy" shall mean this Reasonable Accommodation/ Modification Policy and Procedures, as adopted by the Fitchburg Housing Authority Board, and as may be amended from time to time.



5. The term “Procedures” shall mean Part B of this Reasonable Accommodation/ Modification Policy and Procedures, and as may be amended from time to time, in a manner consistent with the Policy, by the LHA’s Board.
6. The term “reasonable accommodation” as used herein means a change in the LHA’s rules, policies, practices, or services, that may be necessary to provide persons with disabilities an equal opportunity to participate in LHA programs, activities, and services, and/or to enjoy LHA dwellings or facilities.
7. The term “reasonable modification” as used herein means a physical change, such as to a dwelling unit, building, common or public area, etc., necessary to afford persons with disabilities an equal opportunity to use and enjoy the premises and/or to access programs, activities, and services.
8. The term “Authority” refers to the Fitchburg Housing Authority
9. Applicants refers to individuals who are applying/have already applied to one of the Authority’s housing programs.
10. Voucher Holders refers to individuals who are holding an unexpired voucher from a state or federal program administered by the Authority’s Leased Housing Division (such as “Section 8” or “MRVP”). They become “Participants” (see below) upon execution of a Housing Assistance Payment (“HAP”) Contract.
11. Participants (or “Leased Housing Participants”) refers to individuals assisted under the federal or state voucher or non-voucher programs administered by WHA’s Leased Housing Division. Leased Housing programs include the “Section 8,” “Section 8 Mod Rehab,” “Section 8 PBV,” and “MRVP” programs. • Residents (or “Public Housing Residents”): Individuals lawfully residing at any of WHA’s public housing developments
12. Clients can be either voucher holders, or public housing residents.
13. Applicants can be either applicants for a voucher or public housing program.
14. State Housing Programs refers to those housing programs funded and regulated by the Massachusetts Department of Housing & Community Development (DHCD).
15. The term “Pet” shall refer to an animal that is not a service or support animal.



16. The term “accommodation” refers to a change in a rule, policy, practice or service. It is required when necessary to afford a person with disabilities equal opportunity to use and enjoy a dwelling. An accommodation is only required where there is a casual connection between the individual’s disability and the need for an accommodation. See *Bos. Hous. Auth. v. Bridgewater*, 452 Mas. 833 (2009)

B. Other terms and definitions used in this policy if not defined herein will use their most common accepted definition.

CHAPTER 2: GOVERNING AUTHORITY

2.1 The requirements of this Policy are based upon the following statutes and regulations:

A. Section 504 of the Rehabilitation Act of 1973, as amended (“Section 504”), and implementing regulations at 24 CFR part 8, which prohibit discrimination on the basis of disability status by recipients of federal financial assistance.

B. The Fair Housing Act (“FHA”), as amended, which prohibits discrimination in the sale, rental and financing of dwellings on the basis of disability and other protected classes. Reasonable accommodation requirements are further clarified under The Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations under the Fair Housing Act;

C. Title II of the Americans With Disabilities Act (“ADA”), as amended, and implementing regulations at 28 CFR part 35, prohibit discrimination on the basis of disability status by public entities. Except as provided in §35.102(b), of 28 CFR Part 35, the ADA applies to all services, programs and activities provided or made available by public entities (State and local governments and agencies and instrumentalities thereof);

D. D. Massachusetts General Laws chapter 151B, which prohibits discrimination against persons with disabilities and other protected classes in the renting, leasing, or sale of housing accommodations.

E. The FHA is also required to adhere to applicable Massachusetts regulations such as but not limited to 804 CMR 2.03(3)

F. For its federal housing programs (and when not in conflict with Massachusetts laws and regulations its DHCD housing programs), the FHA shall adhere to HUD FHEO-2020-01 (issued January 28th, 2020) Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act.



2.3 Besides changes made in existing statutory laws and regulations from time-to-time courts can make rulings that change current reasonable accommodation procedures and policies. The FHA shall adhere to such court rulings when applicable to the Authority and its policies and procedures will automatically be updated to reflect the court ruling.

2.4 The chart on the following page lists various laws and standard-setting agencies.

CHAPTER 3: CONFIDENTIALITY

3.1 Authorization to Release Confidential Information: Before the Authority can release confidential information and documents of an application, voucher holder or resident it must have a signed release on file.

3.2 Confidentiality & Privacy: Information provided to the Housing Authority in relation to a reasonable accommodation/modification request will be kept confidential and will not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation/modification request or unless disclosure is required by law.

CHAPTER 4: GENERAL DISABILITY DEFINITION

4.1 Definition of Disability: For reasonable accommodations analyses for housing, the definition of a disability has three parts it is a (1) physical or mental impairment that (2) substantially limits (3) one or more major life activities.

4.2 Exceptions to the Definition of Disability: The following are exceptions to the definition of what is a disability:

- The person is a current use or addiction to illegal narcotics
- The person is a direct threat to the Authority, its staff, guests and tenants and this threat cannot be mitigated by a reasonable accommodation.

Please refer to Part B Chapter 10 for additional information on the exceptions to the definition of what is a disability for housing purposes.



5.1 This policy sets forth general timelines for each stage of the process. By those timelines, upon receiving a Reasonable Accommodation request

5.2 Information Provided to Applicants and Tenants: When a tenant applies for housing AND when they sign a lease they will be given the Notice of Reasonable Accommodation Information flyer.

5.3 Notice of Receipt – 14 Days: The FHA will generally provide to the person requesting a reasonable accommodation a Notice of Receipt of the request within fourteen (14) days of receiving a request.

5.4 First Response to Request – 30 Days: The FHA will provide to party who requested a reasonable accommodation request a written response within thirty (30) days of receiving such request.

5.5 When Basis for Request is Not in Dispute: The LHA can take a much shorter time to answer requests that should clearly grant because the basis for them is clear. Examples include allowing a clearly qualified service animal to a tenant who is clearly visually impaired or to approve the installation of a shower grab bar for a tenant who clearly needs one. In these cases, FHA staff should speed up each stage of the process to approve the request within a few days.

5.6 When Basis for Request Includes Safety Concerns: The FHA could speedily respond to a request for an accommodation that also is necessary to address a safety threat. As appropriate in such cases, staff can rely on verbal approval and allow the paperwork of this policy catch up later.

5.7 Interactive Request: The FHA may also require more time than the general timelines set forth in this policy to answer a request that presents hard questions or that is based upon facts that are not clear. In these situations, the FHA will respond to the request within the thirty (30) day First Response period but request that the parties engage in an interactive process to determine what is feasible.



6.1 The FHA is committed to increasing opportunities for people with physical and/or mental disabilities and will work with those public and private entities that can assist the Authority in meeting this goal.

6.2 Massachusetts Office on Disability: In furtherance of its reasonable accommodation goals the FHA will work with the Massachusetts Office on Disability (MOD). MOD works to ensure that people with disabilities can equally participate in all aspects of life in Massachusetts. MOD serves as a resource to state agencies, municipalities, and members of the general public by providing information, guidance and training on matters concerning disability-related civil rights, equal access, and opportunity.

6.3 Fitchburg Disability Commission: The FHA is also committed to working with the Fitchburg Disability Commission (FDC) whose mission is to “To enhance the quality of life for people with disabilities in Fitchburg by raising awareness and promoting compliance with, and adoption of, relevant laws and regulations.” Per [Chapter 3 Article 34 of the City of Fitchburg Code](#) the FDC is tasked with:

- The investigation and research of local concerns and issues of persons with disabilities and to make recommendations as a result thereof
- To coordinate and or carry out programs designed to meet the needs of persons with disabilities
- To provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses, and organizations on matters relating to disabilities
- To review and make recommendations about the policies, procedures, services, activities and facilities of municipal departments, boards or agencies as they affect persons with disabilities

The FDC is comprised of between five and eleven volunteers, of whom a majority shall be persons with a disability.

6.4 Memorandum of Agreement FHA-FDC: The FHA will engage with the FDC to coordinate its reasonable accommodation efforts including entering into a mutual Memorandum of Agreement in which on at least an annual basis the FHA will update the FDC on its plans to increase ADA housing, remove structural barriers and the implementation of its Reasonable Accommodation Plan. It is hoped that the two organizations will exchange information to improve the lives of the disabled.



CHAPTER 7: STAFF TRAINING

7.1 The [Equal Opportunity Officer/Reasonable Accommodation Coordinator/Executive Director/other LHA employee] will ensure that LHA staff are familiar with this Policy and Procedures and all applicable federal, state and local requirements regarding reasonable accommodations/modifications.

7.2 The [Equal Opportunity Officer/Executive Director] will avail himself/herself of training opportunities related to anti-discrimination efforts and reasonable accommodations/modifications.

7.3 The [Equal Opportunity Officer/Executive Director] will review training courses offered by the Massachusetts Office n Disabilities to determine if needed by FHA staff.

CHAPTER 8: AMENDMENTS

8.1 The Policy may be amended only by resolution of the Board of the LHA.

8.2 The Procedures may be amended within the scope of the Policy by the Board of the LHA.

8.3 Legal Compliance. Any amendment to the Policy or Procedures shall be consistent with all applicable laws and regulations.

8.4 This policy will be automatically amended and updated when any Parts, and/or Chapters of this policy are no longer valid due to an operation of law.



PART B: IMPLEMENTATION RESPONSIBILITY & PROCESS

CHAPTER 9: MONITORING, ENFORCEMENT & REPORTING

9.1 The following outlines the general process that the FHA shall follow for implementation of its Reasonable Accommodation policy:

A. The Authority's Executive Director shall be the Reasonable Accommodation Coordinator (RAC) and the Deputy Director is the Deputy Reasonable Accommodation Coordinator. The Executive Director can assign other RACs as needed.

B. The RAC is responsible for monitoring the LHA's compliance with this Policy and enforcing the requirements under this Policy. Questions regarding this Policy, its interpretation or implementation should be made by contacting the Executive Director.

9.2 The FHA shall maintain a tracking reporting system for all reasonable accommodation requests and the Executive Director shall from time to time assign staff to maintain such data base.

9.3 The FHA's Reasonable Accommodation policy shall be listed on its official website.

9.4 Commencing in 2023 the number of reasonable accommodation requests shall be reported to the FHA's Board of Commissioners.

CHAPTER 10: CONTROL OVER THE ACCOMMODATION: PERSON WITH DISABILITIES

10.1 Related to communication concerns who controls the need for and nature of the accommodation. In general, a person with disabilities is in the best position to determine the need and nature of an accommodation and communications and documents exchanged with such person should not presume otherwise.

10.2 The FHA cannot require someone to accept and unwanted accommodation.



Who	Responsibilities
<p>All FHA Staff</p> <p>(Includes Maintenance and Administrative employees)</p>	<p>All staff must be alert for the needs that disabled persons (other staff, tenants, Voucher holders, and applicants) may have for reasonable accommodation/modification under this policy. When appropriate, staff should offer to help persons who appear to need help making a request under this policy for reasonable accommodation/modification.</p>
<p>Front-Line Staff</p> <ul style="list-style-type: none"> • Voucher Staff • Customer & Application Services • Property Managers • Resident Service Coordinators 	<p>Front-line staff are those responsible for receiving requests for accommodation/modification from persons within their areas of responsibility. They are responsible for gathering information necessary to assess the request and forwarding the information for processing.</p> <p>Front-line staff are also responsible for being the FHA contact for the requester and guiding that person through the process set out in this policy.</p> <p><i>Please note that while maintenance employees are not responsible for processing reasonable accommodation requests, they are responsible for forwarding such requests to their immediate supervisor.</i></p>
<p>Customer Service & Applications Department</p>	<p>The Customer Service & Applications Department is responsible for updating the Reasonable Accommodation Tracking System (R.A.T.S.), and sending out the written communications to those who have submitted reasonable accommodations.</p>
<p>Office of the EX. DIR.</p> <ul style="list-style-type: none"> • Director of Finance/HR • Deputy Director • Office/Admin Staff 	<p>The Office of the Executive Director Staff works with the Customer Service & Applications Department in processing all reasonable accommodation requests.</p> <p>The Deputy Director may on occasion be called upon to handle appeals for those who have had reasonable accommodation requests rejected by the Reasonable Accommodation Officer (Executive Director)</p>
<p>Executive Director</p>	<p>The Executive Director is the chief Reasonable Accommodation Officer who makes the final decision on all such requests and decides if the FHA's budget can accommodate reasonable accommodation requests.</p>



CHAPTER 12: REASONABLE ACCOMMODATION TRACKING SYSTEM

12.1 The FHA has established a tracking system to account for all housing-related reasonable accommodation requests. Called the Reasonable Accommodation Tracking System (RATS), it is designed to ensure deadlines are kept and responses made for all reasonable accommodation requests.

- A. Once a request is submitted, Customer Service Dept. gives a receipt to the requester within 14 days of receipt of the request by email, hand deliver and mail.
- B. Customer Service Dept. enters the request in the RATS, notifies/communicates Executive Director, Deputy Director, Executive Assistant, and appropriate department staff (Property Managers, Leased Housing Managers, Resident Service Coordinators) by the FHA internal notification system with all related documents, and is responsible for updating the RATS.
- C. Customer Service Dept. also creates a reasonable accommodation request case file and send to Executive Office to follow up.
- D. Once Executive office receives a file, Executive Director writes an approval or denial letter to the requester within 30 days of the receipt.
- E. The approval/denial letter is hand delivered and mailed out to requester through the Housing Manger.
- F. If the case needs to be followed up, the case is still in active, otherwise the case is closed in RATS system.

12.2 The FHA cannot require someone to accept unwanted accommodation.

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12.4 The FHA cannot require someone to accept unwanted accommodation.



PART C: DEFINING, ELIGIBILITY, & VERIFICATION POLICY & PROCEDURES

CHAPTER 13: WHAT IS A DISABILITY FOR HOUSING PURPOSES

13.1 Definition of Disability: (A) As noted below for reasonable accommodations analyses, the definition of a disability has three parts it is a (1) physical or mental impairment that (2) substantially limits (3) one or more major life activities:

- I. **“Physical or mental impairment:”** Some examples of this are diseases and conditions, such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV) infection, intellectual disabilities, emotional illness, drug addiction, and alcoholism.
- II. **“Substantially limits:”** The limitation caused by the mental or physical impairment is “significant” or “to a large degree.”
- III. **“Major life activity:”** An activity of central importance to daily life. Some examples are seeing, hearing, walking, breathing, performing manual tasks, caring for oneself, learning, and speaking.

(B) Please note that this definition of disability is for reasonable accommodation in housing purposes and the examples noted above are not exclusive.

CHAPTER 14: EXCEPTIONS TO DEFINITION OF WHAT IS A DISABILITY

14.1 Exceptions to the Definition of Disability: The term disability for purposes of housing does not include the following:

I. DRUG/NARCOTIC USE

(A) The current use or addiction to illegal narcotics is an exception to the definition of disability. Current is defined as:

(1) The drug/narcotic use occurred recently enough to justify to a reasonable person to believe that such drug/narcotic use is current; or

(2) The drug/narcotic use is continuing and is a real and on-going concern and problem.

(B) Where there is evidence of prior use of such illegal drugs/narcotics and the requester for a reasonable accommodation contends that they are not engaged in such current use, such person must provide sufficient evidence of recovery and be willing and able to be compliant with all other public or leased housing program rules and mandates.



(C) Persons can make a reasonable accommodation request and present evidence that such request will in fact mitigate the drug/narcotic issues.

II. DIRECT THREAT EXCEPTION TO THE DEFINITION OF DISABILITY

(A) An individual is not eligible for a reasonable accommodation if the following are present:

- (1) The person poses a direct threat to the health or safety of other individuals, and this cannot be mitigated by a reasonable modification
- (2) The person would cause substantial damaged to Authority or others property
- (3) The person's request for reasonable modification would not mitigate their direct threat to others and/or property.

(B) Persons can make a reasonable accommodation request and present evidence that such request will in fact mitigate any direct threat issues.

(C) Discrimination protections do not extend to any individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. See 24 CFR §8.3. However, blanket exclusions are not allowed. Instead, there must be individualized fact-specific inquiries.

(D) To exclude a person under the Direct Threat Exception, a landlord MUST show how the person would pose a direct threat based on OBJECTIVE evidence and NOT on generalized assumption, subjective fears and/or mere speculations.¹ Please note that a reasonable accommodation could in some cases mitigate someone's Direct Threat Exception. In such cases the landlord must stop the eviction process or house such persons. Example of such situation could occur if medication would stop violate behavior. But if after reviewing the matter if it is determined that such person's are not able to conform their behavior then such person can be denied housing or evicted.

CHAPTER 15: FAIR HOUSING OVERRIDES STRICT LIABILITY LEASE CLAUSES

15.1 Strict Liability Leases and Fair Housing and Reasonable Accommodation Requirements:

Fair housing obligations including the obligation to reasonably accommodate disabled tenants overrides any strict liability clauses concerning criminal activity of tenants and/or their guests in HUD or DHCD housing programs. An example of this is as follows: If a family includes a person with disabilities, a decision to terminate benefits and/or housing is still subject to consideration of reasonable accommodation to determine if such accommodation can negate the alleged criminal or lease violation actions.

¹ See Glendale Assocs. LP v. Harris, 97 Mass. App. Ct. 454, 462 (2020)



15.2 In applying the Strict Liability override could mean if the family or individual secures a live-in aide to assist in ensuring that unruly guests will not reside in the unit that could be considered a reasonable accommodation.²

CHAPTER 16: REASONABLE ACCOMMODATIONS RESERVED ONLY FOR QUALIFIED INDIVIDUALS WITH A DISABILITY

16.1 General Eligibility Requirements: Reasonable accommodations regardless of the type of accommodation (Policy/Procedure, Physical, Transfer-Relocation) is reserved only for those individuals that are otherwise *qualified individuals with a disability*.

16.2 Definition of Qualified Individuals: “otherwise qualified individual with a disability” is a person with a disability who is able to meet essential Authority eligibility requirements and comply with essential program requirements with or without an reasonable accommodation. Examples of essential program requirements include but are not limited to the following:

- income,
- residency,
- CORI,
- landlord references,
- number of family members and
- available bedrooms,
- rent payment history.

The list above is only a sample of the program requirements that all applicants and residents must demonstrate to be housed or to continue to stay housed.

16.3 Examples of Non-Qualified Individuals: (A) Below are some examples of the non-qualified individual scenario:

- I. **INCOME:** Family applies for housing but after reviewing their income and any exclusions they are defined as being over income per the housing program guidelines. This family regardless of if one of them has a disability is not an otherwise qualified individual with a disability.

² See Flavia Moretalara vs. Boston, 99 Mass. App. Ct.1 (2020)



II. **AGE:** Family applies for housing but the applicant while disabled is under sixty and the Authority has reached its maximum number of under sixty (60) non-elderly disabled percentage. This family regardless of having a disability is not an otherwise qualified individual with a disability.

III. **HOUSEHOLD NUMBER-UNDERHOUSED:** Family applies for housing, but the applicant has too many people in the household for the bedroom size of the unit. This family regardless of having a disability is not an otherwise qualified individual with a disability.

IV. **HOUSEHOLD NUMBER-OVERHOUSED:** Family applies for housing, but the applicant does not have enough people in the household for the bedroom size of the unit. This family regardless of having a disability is not an otherwise qualified individual with a disability.

V. **CORI ISSUES:** Applicant does not meet the FHA's CORI standards. This family regardless of having a disability is not an otherwise qualified individual with a disability.

VI. **REFERENCE CHECKS:** Applicant does not meet the FHA's reference/background check standards. This family regardless of having a disability is not an otherwise qualified individual with a disability.

B) The examples above show some of the possibilities of how a family can have a disability but not be considered a qualified individual.

CHAPTER 17: DEFINING WHAT IS – AND IS NOT - A REASONABLE ACCOMMODATION

I. DETERMINING WHAT IS A REASONABLE ACCOMMODATION

17.1 (A) At this point in the Authority's analysis it should be determined first that the person has a disability and second that the person is an otherwise qualified individual who in other words meets the Authority's housing program guidelines and mandated rules. If so then the third step is to determine if the individuals request for modifications (physical, program or relocation) is reasonable. A reasonable accommodation is a

- I. a change, exception, or adjustment that the Authority can make to its rules, policies, practices or procedures,
- II. a physical modification to a public housing unit, common area or building, or
- III. Physical transfer of housing location due to a reasonable accommodation request

(B) Physical modifications of buildings and structures are known as "reasonable modifications" under the law. This policy will use the term "reasonable accommodation" to cover physical changes as well.



17.2 Reasonable accommodations are requested by individuals with disabilities to reduce, or remove any barriers that prevents them for accessing to the fullest extent possible the housing programs offered by the Authority.

17.3 In evaluating whether an accommodation imposes an undue administrative and/or financial burden, courts will examine the overall costs and benefits of the requested accommodation. Note the courts use the following formula to determine if a modification is reasonable:

Costs are Reasonable in light of the anticipated benefits + Burdens imposed are not undue

If the courts find that the modification formula above has been met but the LHA has denied the modification Refusal to grant modification

17.4 Examples of Reasonable Accommodations: (A) There are four (4) types of reasonable accommodation requests:

- Change or Modification of FHA Policy and/or Procedure;
- Relocation/Transfer from Current Housing Unit;
- Physical Alternation of a Common Area or the Apartment; and
- Request for a service or support animal

All four types of reasonable accommodation requests are different but the procedures to process and review such requests are the same.

(B). The following is a list of examples of reasonable accommodation requests:

1. **TRANSFER -RELOCATION OF HOUSING:** A Resident or Applicant with a disability that prevents him or her from climbing stairs requests a unit located on a first floor or in an elevator-equipped building.
2. **PHYSICAL:** A Resident or Applicant with a disability that makes walking and standing difficult requests grab bars for his/her unit's bathroom (Resident) or a unit with such features (Applicant).
3. **TRANSFER-RELOCATION OF HOUSING:** A Resident or Applicant with a mental disability that makes travel on public transportation difficult requests a unit close to his/her service provider who he/she visits on a frequent basis.



4. **POLICY/PROCEDURE:** A Resident with a mental disability who disrupts his/her neighbors when off his/her medication requests that the Authority not seek an eviction in exchange for an agreement to follow a treatment plan that will prevent further disruptions.
5. **POLICY/PROCEDURE:** A Voucher Holder with a disability requiring the use a wheelchair requests extra time to use a Section 8 mobile voucher because he/she is having difficulty finding a wheelchair-accessible apartment.
6. **POLICY/PROCEDURE:** A Voucher Holder with a disability requests a higher payment standard for his/her Section 8 mobile voucher because he/she is having difficulty locating an apartment that meets his/her disability related needs within the limits of the regular payment standard.
7. **POLICY/PROCEDURE:** A Client with a hearing impairment requests that the Authority provide a sign language interpreter for meetings with Authority staff.
8. **PHYSICAL:** A tenant with a hearing impairment requests that the Authority modify the doorbell in his or her apartment from a chime to a flashing light.
9. **POLICY/PROCEDURE:** Applicant to public housing requests modification of no pet policy to allow for person to live with an emotional support animal.
10. **POLICY/PROCEDURE:** A Client who cannot attend a meeting, conference, or hearing due to a disability request that the Authority allow the meeting to be conducted at an alternative time or location, or by alternative means such as telephone or email exchanges.
11. **POLICY/PROCEDURE:** A Client who has difficulty writing due to a disability request that the Authority staff member assist him or her with filling out a required form.
12. **POLICY/PROCEDURE:** An Applicant with a disability that makes keeping appointments difficult misses a screening appointment for this reason and requests that he or she not be removed from the waitlist and instead be given another opportunity to attend.
13. **POLICY/PROCEDURE:** An Applicant with items on his/her CORI that would lead to a finding of ineligibility, but which resulted from a then-untreated disability, requests that the Authority find him/her eligible because he/she is now being treated and can provide evidence that the acts are unlikely to happen again.
14. **PHYSICAL:** A tenant has difficult walking up a flight of stairs and requests that a ramp be built to accommodate a wheelchair.
15. **REQUEST FOR SERVICE ANIMAL:** A tenant desires to change status of their dog from a pet to a service animal.



The above list of reasonable accommodation requests are just a very brief list of what could be requested. Please note just because a request is made does not translate into automatic approval. Such requests for accommodation must be reasonable and also be for qualified individuals with a disability.

II. WHAT IS NOT A REASONABLE ACCOMMODATION

17.5 Reasonable Accommodations must be “reasonable” to be granted: (A) Per this policy and by law the Authority is not required to grant an accommodation unless it is reasonable. (B) Determining if an accommodation is reasonable is a two part-test. If an Accommodation would 1) pose an “undue financial or administrative burden” for the Authority and/or 2) result in a “fundamental alteration” in the nature of an Authority program, it is considered unreasonable.

17.6 Defining What is an “undue financial or administrative burden.” (A) A determination of burden takes into account the Authority’s currently available resources. Factors to be considered include:

- I. The financial and administrative resources of the Authority and the cost of the accommodation in terms of both;
- II. The benefits the requested accommodation would provide the Client; and
- III. The availability of other accommodations that require less financial and administrative resources but would still meet the Client’s needs.

(B) If there are multiple Accommodations that would meet a client’s needs, the Authority may select the least burdensome.

(C) If only one Accommodation would meet a client’s needs but it is burdensome, the Authority will comply with it to the extent it can do so without creating an undue financial and/or administrative burden.

17.7 Defining What is a “Fundamental Alteration.” (A) An Accommodation requires a fundamental alteration of Authority programs if it would cause the agency to act outside of its primary purpose as a provider of subsidized housing. For example, requests that WHA provide resources for childcare, nursing services, or other services not directly related to housing/rental assistance would require fundamental alterations of Authority program and therefore not be reasonable.

(B) Requests that require the Authority to operate contrary to the requirements placed upon it by law or regulation would be also be considered fundamental alterations. For example, if a Voucher Holder requests to be able to lease up a unit that would require him/her to pay more than 40% of his/her monthly adjusted income as a reasonable accommodation (because he/she needs to live in



that particular unit due to a disability), that request would be denied because HUD strictly forbids approving initial leases that require that much payment.³

17.8 Devices and services not provided as Reasonable Accommodations: The Authority is not required to provide applicants, clients and residents with disabilities with personal or individually-prescribed devices, such as, but not limited to the following: supportive-vehicle equipment or devices, wheelchairs, security cameras, prescription eyeglasses, or hearing aids, or to provide services of a personal nature, such as assistance in eating, toileting, or dressing.

³ In such situations, an RA request to increase the payment standard, if supported by appropriate documentation and approved by the Leased Housing Division, might resolve the situation.



PART D: SERVICE & SUPPORT ANIMALS

CHAPTER 18: DEFINITION OF ASSISTANCE ANIMALS

18.1 Defining Assistance Animals – NOT Pets. Assistance animals are NOT pets. They are animals that do work, perform tasks, assist and/or provide therapeutic emotional support for individuals with disabilities. However, if an owner of an assistance animal also considers them as a pet that does not mean they are not also an assistance animal.

18.2 Two Types of Assistance Animals. There are two (2) types of Assistance Animals:

A. **Service Animals:** Is any animal (usually a canine) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or mental disability. The work or tasks performed by a Service Animal MUST be directly related to the individual's disability.

B. **Support Animals:** Are animals that does NOT qualify as a Service Animal but do work, perform tasks, provide assistance and/or provide therapeutic emotional support for individuals with disabilities.

Assistance Animals either Service or Support are NOT pets.

18.3 Pets Defined: An animal that does not qualify as either an Assistance or Service Animal is a pet for purposes of the FHA. Such animals will be regulated by the FHA's stand-alone Pet & Animal Policy (PAP). The FHA's Pet Policy sets the standards for the amount and type of pets allowed.

CHAPTER 19: DEFINITION OF UNIQUE ANIMALS

19.1 Defining Unique Animals. Unique Animals are those that are NOT common household pets. Dogs, cats, birds, fish, gerbils and other rodents, turtles or other small domesticated animals that are traditionally kept by families for pleasure are common household pets.

19.2 Additional Burden if Requesting Unique Animal for Reasonable Accommodation Purposes. If the applicant or tenant is requesting to keep a unique animal for reasonable accommodation purposes then the requester has the burden of demonstrating a disability-related therapeutic need for such unique animal.



CHAPTER 20: REGULATION & RESPONSIBILITY OF ANIMALS & PETS ON FHA PROPERTY

20.1 Animal & Pet Licensing. Nothing in the FHA's Reasonable Accommodation Policy shall exempt owners if animals – regardless of type – to license such animal with the appropriate public agency. Failure to do so is a violation of the FHA's lease and such tenants shall face eviction.

20.2 Animal & Pet Registration. Nothing in the FHA's Reasonable Accommodation Policy shall exempt owners if animals – regardless of type – to register such animal with the FHA. Failure to do so is a violation of the FHA's lease and such tenants shall face eviction. Registration shall occur when such animal is residing in the leased unit. This applies to overnight guests.

20.3 Responsibilities of Tenant. (A) Nothing in the FHA's Reasonable Accommodation Policy shall exempt owners if animals – regardless of type – from the responsibility to care for their animals. This includes the animal's health care, feeding and disposing of waste. (B) In addition, if such animals cause harm to other tenants, guests or FHA staff or damage property of the FHA or its tenants, guests or staff the FHA may seek the removal of such animal.

20.4 Pets Fees & Charges. The FHA may establish uniform pet fees and charges. However, the registration of Support and Service Animals shall be exempt from registration fees but not charges for damages caused by such animals.

20.5 FHA Pet & Animal Policy. Owners of animals regardless of type shall adhere to the FHA's stand-alone Pet & Animal Policy. Only those sections that conflict with the FHA's Reasonable Accommodation Policy shall be exempt for owners of Service and Support Animals, unique or not. However, all animals must adhere to licensing, registration requirements and their owners will be held responsible for the care and actions of such animals.

20.6 Medical Expense Exemptions for Assistance Animals. (A) **DHCD HOUSING** - Per Massachusetts regulation 760 CMR 6.05 for the purposes of determining income for applicants and tenants of DHCD housing the FHA shall consider actual, reasonable and verified non-reimbursable out of pocket household expenses relating to maintaining guide and service animals as a medical deduction under 760 CMR 6.05(4)(e). These expenses could be considered in either category. (B) **HUD HOUSING** - Service animals are allowable medical expenses in IRS Publication 502, which HUD recommends Public Housing Agencies (PHAs) use as a standard for determining allowable medical expenses. The expense would have to meet the definition of either a disability assistance expense or a medical expense to be deducted. Each definition has different criteria. Cross References: 24 CFR 5.603; 24 CFR 5.611(a)(3); and IRS Publication 502. (C) Other rules and regulations may need to be cross-referenced concerning proper deductions for assistance animals.



21.1 Documents Confirming Animal is a Service Animal – Personal Knowledge Requirement. (A)

The FHA can request that the applicant or tenant provide documentation that the animal in question is in fact trained to perform the tasks as requested for the person's disability (see other sections of the FHA's RAP about confirming person's disability). **(B)** The FHA CAN request documentation that the animal can perform the tasks need by the applicant or tenant to accommodate his or her disability. The FHA CAN reject any certificate or licensing document procured from a website or other manner if they were written WITHOUT personal knowledge of the person and/or animal. **(C)** Note that some medical and veterinarian provides provide services by telemedicine which is acceptable for confirming the animal's status.

21.2 Limitations Concerning Animal Type & Weight. The FHA cannot limit the breed or size of dog used as a Service or Support Animal.

21.3 Particular Animal Restrictions. The FHA can place restrictions – including banning – a dog or animal because of the actual conduct of such dog or animal.

21.4 Direct Threat Analysis. The FHA can refuse to approve a reasonable accommodation request for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the applicant or tenant takes to maintain control of such animal.

21.5 Timing of Request for Assistance Animals. (A) A request for an Assistance Animal can be made before and during tenancy. It can also be made after the person has acquired such animal but before the FHA has approved the request. However, the applicant or tenant must at all times adhere to all licensing and animal registration policies. **(B)** A request for an assistance animal can also be made during the lease eviction process and if such occurs the request shall be treated as any other type of reasonable accommodation request with no undue delay.

21.6 Establishing Nexus between Peron's Disability and Need for Assistance Animal. (A) There must be an established nexus between the disability needing a reasonable accommodation and the animal in question. Without such nexus the request for an assistance animal can be denied and then the FHA's Pet & Animal Policy would control. **(B)** Documentation to establish a nexus should include information from medical provider that such person has a professional relationship with the patient and that the requested animal is required to accommodate such person/patient's disability.



PART E: COMMUNICATION BARRIERS & MEETINGS

CHAPTER 22: OVERCOMING COMMUNICATIONS BARRIERS

22.1 Providing Communication Assistance: Clients who require assistance in reading, filling out, submitting, or understanding the Authority’s reasonable accommodation forms may contact the Authority for assistance in providing translation services.

22.2 Auxiliary aids and other assistance for communication: The Authority will provide appropriate auxiliary aids and other assistance for clients requesting communication-related RAs (for example, qualified sign language and oral interpreters, readers, use of taped materials).

22.3 Telecommunications with the deaf and hard of hearing: When the Authority communicates by phone with Clients with hearing impairments, it will use telecommunication devices for the deaf/teletypewriter (“TDD/TTY”) services or other effective communications systems.

CHAPTER 23: LANGUAGE ASSISTANCE PLAN

23.1 The FHA adopted a revised Language Access Plan on November 15th, 2022 to reflect updates required by DHCD. Pursuant to [760 CMR 4.02\(1\)\(e\)](#), Massachusetts Local Housing Authorities must adopt and enforce a Language Access Plan (“LAP”) regardless of whether they receive federal funds.

23.2 The goals of the FHAs LAP include: (A) To ensure meaningful access to the LHA’s housing programs by all eligible individuals regardless of primary language spoken, (B), To ensure that all LEP individuals are made aware that the LHA will provide free oral interpretation services to facilitate their contacts with and participation in programs administered by the LHA, (C) To provide written translations of vital documents to LEP individuals speaking priority languages and (D) To ensure that LHA staff are aware of available language access services and how these services need to be used when serving LEP individuals.

23.3 Telecommunications with the deaf and hard of hearing: When the Authority communicates by phone with Clients with hearing impairments, it will use telecommunication devices for the deaf/teletypewriter (“TDD/TTY”) services or other effective communications systems.



24.1 Format and location of meetings: The Authority will format and schedule Client meetings, conferences, and hearings in a manner that accommodates their disability-related needs if doing so may be necessary as a reasonable accommodation. Examples of such reasonable accommodations include but not limit to:

- Having a meeting by telephone or changing its location to one that is more comfortable for a client with agoraphobia.
- Changing the time of day at which a private conference is to be held for a client with diabetes so that it is better timed with his/her dialysis schedule.

Third parties may also attend meetings, conferences, and hearings to assist a Client with a disability as discussed below in Section 7.11

24.2 Extensions when there are delays in providing effective communication: If a client requests an extension of any deadline because of a Authority-caused delay in providing effective communication (for example, if the Authority does not procure a sign interpreter in time), such a request will be approved.

24.3 Assistance from third-party representatives: A third-party representative (for example, an advocate, friend, family member or service provider) may do any of the following with authorization from the Client:

- 1.) Act on the Client's behalf in dealing with the Authority with regard to an reasonable accommodation request (including filling out and submitting the Request for Reasonable Accommodation form); or
- 2.) Assist the Client at any meetings, conferences or interviews; and
- 3.) View all documents in the Client's Authority files which relate to his/her RA request.

Upon the request of a Client, Authority will also send copies of any future Authority notices to an authorized third-party representative as well as the Client.



25. Formatting and presentation of documents: The Authority will make all communications with Clients available in a format that accommodates their disability-related needs if doing so may be necessary as a reasonable accommodation. Examples of such requests include but are not limited to:

- Providing Clients with visual impairments with large-print documents.
- Meeting with Clients with cognitive disabilities to go over complex documents.
- Assisting Clients with disabilities that impact writing by helping them fill out any necessary forms.

The Authority will do its upmost to assist with communication issues so discussions regarding disability requests can proceed smoothly and with clarity.



PART F: APPLYING FOR & ANALYZING THE REASONABLE ACCD., REQUEST

I. REQUEST CAN TAKE MANY FORMS – NO FORMAL APPLICATION NEEDED

CHAPTER 26. REQUESTING A REASONABLE ACCOMMODATION

26.1 No Official way to Request an Accommodation BUT a request MUST be Made: (A) The Authority is obligated to provide a reasonable accommodation only if the Client, or a person acting at the Client's request, requests one. (B) To make the request, a client does not need to mention any law, this policy, or use any specific words, such as "reasonable accommodation." (C) The Client must make the request, however, in a manner that a reasonable person would understand it to be a request for an exception, change, or adjustment to a rule, policy, practice, or service because of a disability. For example, if a resident is facing eviction for an action that he/she committed due to a disability and simply says at a private conference, "I was off my medication at the time," this would be enough to start the interactive process.

26.2 Providing Reasonable Accommodation Information: At the time of application, all Applicants will be provided with the opportunity to request a reasonable accommodation/modification on the Common Housing Application for Massachusetts Public-Housing (CHAMP) or by paper application, or, upon the applicant's request, in another equally effective format. The Notice of Reasonable Accommodation Information will be made available for Applicants and Residents with Mental and/or Physical Disabilities ("Notice") is attached to this Policy and Procedures as Attachment

26.3 Authority is Responsible for Providing Reasonable Accommodation Information: (A) The Authority is responsible for informing all applicants, clients, and residents that a request may be submitted for reasonable accommodations/modifications for an individual with a disability. (B) All residents will be provided the Notice and the Request Form when requesting a reasonable accommodation/modification. *However, the Request Form cannot be required. A resident may otherwise submit the request in writing, orally, and at any time.* (C) If additional information or documentation is required, a written request should be issued to the resident by using the Request for Information or Verification Form ("Request for Information") (a copy of which is attached to this Policy and Procedures as Attachment 3). The Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request form ("Verification for Reasonable Accommodation/Modification Request Form") is attached to this Policies and Procedures as Attachment 4).

26.4 The Person with the Disability does NOT Need to Make the Request: A Client with a disability does not need to personally make the reasonable accommodation request; the request can be made by a family member or someone else acting on his/her behalf. The Authority may however, request that the third party provide with proof of having the Client's permission or legal authority to assist in such matters.



26.5 Leasing Status of Person Requesting Reasonable Accommodation is Irrelevant: The person requesting the reasonable accommodation does not need to be the head of household.

26.6 LHA Residents seeking accommodations/modifications may contact the management office located within their housing development or the management office for their scattered site residence or call the LHA main office

26.7 Request vs. Application for Reasonable Accommodation: (A) There is a clear difference between a request for reasonable accommodations and the application process for such request. Clients do NOT need to fill out any forms to begin the reasonable accommodation process. As long as such request is communicated in such a way that a reasonable person would understand the request then the request has been officially communicated to the Authority. **(B)** The reasonable accommodation application are the written procedures used by the Authority to process such requests.

26.8 Authority's Reasonable Accommodation Forms: The Authority will make forms available for reasonable accommodation purposes. However, if it is regarding a reasonable accommodation requests a client does *not* need to use them to make such request. However, these forms and documents will include the following:

- **Request for Reasonable Accommodation** (to be filled out by the Client) and
- **Certification of Need** (to be filled out by a third-party for verification purposes).

While not required, these forms may make the reasonable accommodation process faster and simpler for both the Client and the Authority. The Authority will have forms specifically tailored for Applicants and Residents and another set for Leased Housing Voucher Holders and Participants. They will be available online on the Authority's website and at all leasing and customer service offices.



II. ONCE REQUEST MADE BEGIN FORMAL APPLICATION PROCESS

CHAPTER 27: ANALYZING & VERIFYING REASONABLE ACCOMMODATION REQUESTS

27.1 Reasonable Accommodation Requests Reviewed on a Case-by-Case Basis: There is no cookie cutter approach to reasonable accommodation requests. Requests for reasonable accommodation/modification will be considered on a case-by-case basis. Decisions regarding reasonable accommodations/modifications will be made in compliance with all applicable laws, regulations, and requirements. Additionally, in those circumstances where the LHA deems that a proposed reasonable accommodation/ modification would fundamentally alter the service, program, or activity, or would result in undue financial and administrative burdens, the LHA has the burden of proving such result(s).

27.2 Examination of Request via Interactive Process: (A) Before deciding on a client’s request for an Accommodation, the Authority must engage in an “interactive process” with the Client. This *non-adversarial* process is based on communicating with the Client about his/her needs in a cooperative and solution-oriented manner. (B) During the interactive process, the Authority may seek additional information about the nature of the request, as well as verify the needs of the Client from reliable third parties. (C) The interactive process also allows the Authority and Client to discuss alternative Accommodations when a client proposes an Accommodation that the Authority thinks may be burdensome, unreasonable, or ineffective in addressing the concerns at issue.

27.3 If Request for Reasonable Accommodation is Not Obvious: Unless the disability-related need for an accommodation/ modification is obvious or otherwise known to the Authority, the Authority may require the individual with a disability to provide further information to demonstrate the need for the requested accommodation to enable an equal opportunity to access, use, or enjoy the housing program or Authority services and activities. Additionally, the Authority may offer equally effective alternatives to the requested accommodation/modification, and/or alternative methods for providing the requested accommodation through the interactive process.

27.4 Direct Threat & Reasonable Accommodation Generally, an accommodation is not required if it would pose a “direct threat” to the health and safety of other individuals or would result in substantial physical damage to the property of others. The LHA’s assessment of “direct threat” will be individualized and based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The LHA’s assessment will consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. In evaluating a recent history of overt acts, the LHA will take into account circumstances, such as intervening treatment or medication, that have eliminated the direct threat (*i.e.*, a significant risk of substantial harm).



27.5 Reasonable Accommodation Burden Analysis: (A) If the Reasonable Accommodation will result in a modification or alteration or burden that is not reasonable and/or will fundamentally alter the housing program then such accommodation can be rejected as not reasonable. This decision shall rest with the Executive Director or his/her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the LHA shall propose any other action that will not result in or require a fundamental alteration or financial and administrative burden as part of the interactive process.

(B) The LHA will also grant reasonable modifications in accordance applicable laws, including G.L. c. 151B § 4(7A) with respect to reasonable modifications that are at the expense of owners in publicly assisted housing. The LHA will also set-aside and consult resources for its state-aided public housing in accordance with PHN 2011-13.

27.6 Undue Financial & Administrative Burden: (A) The FHA will grant the request for a reasonable accommodation/modification only to the extent that an undue financial and administrative burden or fundamental alteration to the nature of the program is not created thereby. A “fundamental alteration” is a modification that alters the essential nature of a provider's operations (e.g., a request for a service such as a transportation service that the FHA does not provide under its program). (B) The FHA will make a determination of undue financial and administrative burden on a case-by-case basis, involving various factors, such as the cost of the reasonable accommodation/modification, the financial resources of the FHA, the benefits the accommodation/modification would provide to the requester, and the availability of alternative accommodations/modifications that would adequately meet the requester’s disability-related needs.

III. VERIFICATION OF DISABILITY CLAIMS

CHAPTER 28: VERIFICATION OF DISABILITY

28.1 Client’s Knowledge of his or her Disability: It is presumed that the individual with a disability is usually knowledgeable of the appropriate types of, and methods for providing, reasonable accommodations/modifications needed when making a request. However, the LHA may offer equally effective alternatives to the requested accommodation, and/or alternative methods for providing the requested accommodation/modification.

28.2 Verification: The LHA may generally verify a person has a disability only to the extent necessary to determine that the person: is qualified for the housing for which they are applying; is entitled to any disability-related preference or benefit they may claim; or has a disability-related need for a requested accommodation/modification in order to have an equal opportunity to enjoy the housing and/or participate in or benefit from the LHA’s activities, programs, or services.



28.3 Verification & Documentation: In response to reasonable accommodation/modification requests, the LHA may not require verification of disability if the disability is obvious or otherwise know. The LHA also may not ask what the disability is or require specific details as to the disability. The LHA may require documentation of the disability-related need (i.e., information showing that there is a relationship or nexus between the requested accommodation/modification and the individual's disability or effects of the disability), unless such need is obvious or otherwise known. The LHA may not otherwise inquire into the nature or severity of the disability, require access to confidential records, or require specific types of evidence of disability or disability-related need.



PART G: EVIDENCE STANDARDS, CONDUCT OF HEARINGS & APPEALS

CHAPTER 29: DUE PROCESS PROTECTIONS

29.1 Recipients of federal money and who employ more than fifteen people must designate someone to coordinate efforts to comply with reasonable accommodation requests (See Section 504 24 C.F.R. §8.53(a). For the FHA that is the Executive Director and others whom may be designated to investigate and/or her reasonable accommodation requests and conduct hearings.

29.2 LHAs must establish an internal process to review reasonable accommodation requests that incorporates due process protections and sets standards for prompt and equitable resolution of complaints under Section 504 24 C.F.R. 8.53(b). The FHA's internal process is contained in this RAP.

29.3 At any time a person who has made a reasonable accommodation request and is not satisfied with the FHA's response and/or decision can file a complaint with Massachusetts Commission Against Discrimination and/or HUD.

CHAPTER 30: PREPONDERANCE OF THE EVIDENCE STANDARD

30.1 Preponderance of the Evidence Standard: The FHA shall use a preponderance of the evidence standard when making a determination that the request is reasonable or not reasonable.

30.2 The FHA can use direct and/or circumstantial evidence in making this determination and the use of oral, physical, or written documentation.

CHAPTER 31: BURDEN OF PROOF

31.1 Burden of Proof: The person making the request has the burden of providing three pieces of the criteria. Those three pieces of criteria include:

1. Criteria 1: Request

FHA must receive a request for the accommodation or modification. The request does not have to come from the disabled person in question. Another person may make the request on behalf of the disabled person. The request does not have to be in any particular form. It may be verbal.

2. Criteria 2: Disability

The accommodation or modification must be for a person who fits the definition of disability. It is not necessary for FHA to know the details of a disability. FHA will not require



a person to grant it access to confidential medical records in order to verify a disability. It is enough to get verification of the manifestation of the disability from someone who is in a position to know. That person need not have a medical degree or a particular expertise. However, FHA must have adequate confidence in their judgment and competence. FHA's staff may also know enough about a requester to assess whether the person is disabled.

3. Criteria 3: Necessity for Reasons Substantially Related to the Disability

The requested accommodation or modification must be necessary for the disabled person's full enjoyment of FHA programs, facilities, or employment, or premises, and the necessity must be substantially related to the disability. FHA is not obliged to provide an accommodation or modification that, although not necessary, would be beneficial or convenient. FHA is also not obliged to provide an accommodation or modification that may be necessary to the tenant but for reasons that are not substantially related to the disability

31.2 When those pieces of criteria are met, the FHA bears the burden of showing that the request is not reasonable. And this is done by providing insight into how this request would either be an administrative burden on the FHA, would be a financial burden on the FHA, or would fundamentally alter FHA programs if approved.

CHAPTER 32: NOTICE & CONDUCT OF HEARINGS

32.1. Notice of Hearing: The FHA shall notify the person subject to a hearing with a minimum of five (5) business days' notice of such hearing. All notifications shall be in writing.

32.2 [For programs subject to 760 CMR 5.08(2) and/or 760 CMR 6.03 & 6.08] When an LHA determines that an applicant may be disqualified for housing because of a lease violation at a prior tenancy or other disqualifying conduct, if the applicant shows that the lease violation or disqualifying conduct was due to a disability, then these facts shall be considered by the LHA as mitigating circumstances pursuant to 760 CMR 5.08(2).

32.3 Disability-related circumstances relating to a lease violation may also be presented by or on behalf of a resident with a disability as part of the grievance process pursuant to 760 CMR 6.03 & 6.08. For example, a tenant may demonstrate that a lease violation arose from a disability and that some circumstance has changed, and/or some reasonable accommodation could be provided, making the conduct unlikely to recur. Such circumstances may also be presented separately through a reasonable accommodation request (e.g., a request to forego eviction) independent of the grievance process.

32.4 Tenants may also grieve LHA responses or inaction with respect to a reasonable accommodation/modification request through the grievance process pursuant to 760 CMR 6.03 & 6.08.



PART H: INVESTIGATIONS & ENFORCEMENT BY REGULATORY AGENCIES

CHAPTER 33: REGULATORY AGENCIES

33.1 Applicants and tenants can bring complaints for alleged violations of their civil rights to either the Massachusetts Commission Against Discrimination (MCAD) or the United States Department of Housing & Urban Development.

33.2 Both MCAD and HUD have investigatory and enforcement powers concerning civil rights violation allegations including discrimination against those with mental and/or physical disabilities.

CHAPTER 34: HUD

34.1 A complainant may file an administrative complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO) based on an allegation of disability discrimination.

34.2 Discrimination complaints must be filed within 180 days of the alleged discrimination (for Federal Housing) or one year if non-HUD housing.

34.3 HUD has 180 days to investigate complaints in HUD funded housing and only 100 days to investigate the complaint for non-HUD housing.

34.4 Judicial review of HUD's decisions in civil rights matters is allowed under the APA and the courts can set-aside a decision if it is arbitrary, capricious or an abuse of discretion. The courts can also set aside decisions if they violate the Constitution, lack of evidence, breached procedural standards or the decision exceeded HUD's statutory authority.

CHAPTER 35: MA COMMISSION AGAINST DISCRIMINATION

35.1 MCAD has responsibility for enforcing Chapter 151B.

35.2 (A) Applicants or tenants who believe they have been discriminated against due to a disability have three hundred (300) days to file a complaint with MCAD. See Chapter 151B § 5. However, if they file in court, they have one year to file. (B) MCAD must complete its investigation within one hundred (100) days from the date of receipt of the complaint.

35.3 MCAD's standard to determine if a discriminatory action took place is probable cause.

35.4 If probable cause is found, the complainant or respondent can remove the case to court instead of having the MCAD Commissioner decide the case.



PART I: SUMMARY OF REASONABLE ACCOMODATION REQUEST

The proceeding chapters outlined specific individual policies and procedures. Below are the specific actions and procedures that those implementing the Authority's Reasonable Accommodation policy must follow:

CHAPTER 36 - SEQUENCE FOR MAKING DECISIONS

36.1 At the time of application, all applicants will be provided with the opportunity to request a reasonable accommodation/modification on the Common Housing Application for Massachusetts Public-Housing (CHAMP) or by paper application, or, upon the applicant's request, in another equally effective format. The Notice of Reasonable Accommodation Information will be made available for Applicants and Residents with Mental and/or Physical Disabilities ("Notice") is attached to this Policy and Procedures as Attachment 1.

36.2 LHA Residents seeking accommodations/modifications may contact the management office located within their housing development or the management office for their scattered site residence or call the LHA office

36.3 The FHA is responsible for informing all residents that a request may be submitted for reasonable accommodations/modifications for an individual with a disability. All residents will be provided the Notice and the Request Form when requesting a reasonable accommodation/modification. *However, the Request Form cannot be required. A resident may otherwise submit the request in writing, orally, and at any time.* Upon receiving the request, housing management and/or the [Reasonable Accommodation Coordinator/Executive Director] will respond to the request within ten (10) business days. If additional information or documentation is required, a written request should be issued to the resident by using the Request for Information or Verification Form ("Request for Information") (a copy of which is attached to this Policy and Procedures as Attachment 3). The Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request form ("Verification for Reasonable Accommodation/Modification Request Form") is attached to this Policies and Procedures as Attachment 4).

36.4 The FHA will approve or deny the request as soon as possible, but not later than thirty (30) days after receiving all needed information and documentation from the resident. All decisions to grant or deny reasonable accommodations/modifications will be communicated in writing or if required, in an alternative format to communicate the decision to the applicant/resident. Exceptions to the thirty (30) day period for notification of the LHA's decision on the request should be provided to the resident in writing setting forth the reasons for the delay. A copy of each of the Letter Denying Request for Reasonable Accommodation/ Modification and the Letter Approving Request for Reasonable Accommodation/ Modification is attached to this Policy and Procedure as Attachment 5 and Attachment 6, respectively.



CHAPTER 37 -GUIDELINES FOR DETERMINING REASONABLENESS

37.1 In accordance with Section 6.1 of the Policy, the LHA will consider the requested method for providing reasonable accommodations/modifications for an individual with a disability. However, unless the disability-related need for an accommodation/ modification is obvious or otherwise known to the LHA, the LHA may require the individual with a disability to provide further information to demonstrate the need for the requested accommodation to enable an equal opportunity to access, use, or enjoy the housing program or LHA services and activities. Additionally, the LHA may offer equally effective alternatives to the requested accommodation/modification, and/or alternative methods for providing the requested accommodation through the interactive process.

37.2 Requests for reasonable accommodation/modification will be considered on a case-by-case basis. Decisions regarding reasonable accommodations/modifications will be made in compliance with all applicable laws, regulations, and requirements. Additionally, in those circumstances where the LHA deems that a proposed reasonable accommodation/ modification would fundamentally alter the service, program, or activity, or would result in undue financial and administrative burdens, the LHA has the burden of proving such result(s).

37.3 The responsibility for the decision that a proposed reasonable accommodation/ modification would result in such alteration or burdens shall rest with the Executive Director or his/her designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the LHA shall propose any other action that will not result in or require a fundamental alteration or financial and administrative burden as part of the interactive process.

37.4 Direct Threat. Generally, an accommodation is not required if it would pose a “direct threat” to the health and safety of other individuals or would result in substantial physical damage to the property of others. The LHA’s assessment of “direct threat” will be individualized and based on reliable objective evidence (*e.g.*, current conduct, or a recent history of overt acts). The LHA’s assessment will consider: (1) the nature, duration, and severity of the risk of injury; (2) the probability that injury will actually occur; and (3) whether there are any reasonable accommodations that will eliminate the direct threat. In evaluating a recent history of overt acts, the LHA will take into account circumstances, such as intervening treatment or medication, that have eliminated the direct threat (*i.e.*, a significant risk of substantial harm).

37.5 Verification. The LHA may generally verify a person has a disability only to the extent necessary to determine that the person: is qualified for the housing for which they are applying; is entitled to any disability-related preference or benefit they may claim; or has a disability-related need for a requested accommodation/modification in order to have an equal opportunity to enjoy the housing and/or participate in or benefit from the LHA’s activities, programs, or services.



In response to reasonable accommodation/modification requests, the LHA may not require verification of disability if the disability is obvious or otherwise known. The LHA also may not ask what the disability is or require specific details as to the disability. The LHA may require documentation of the disability-related need (i.e., information showing that there is a relationship or nexus between the requested accommodation/modification and the individual's disability or effects of the disability), unless such need is obvious or otherwise known. The LHA may not otherwise inquire into the nature or severity of the disability, require access to confidential records, or require specific types of evidence of disability or disability-related need.

37.6 Confidentiality. Information provided to the LHA in relation to a reasonable accommodation/modification request will be kept confidential and will not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation/modification request or unless disclosure is required by law.

CHAPTER 38 -STEP BY STEP PROCESSING OF REASONABLE ACCOMMODATION

PHASE ONE: INITIAL COMMUNICATION WITH APPLICANTS & RESIDENTS

STEP 1. Ensure all applicants and tenants have received the Notice of Reasonable Accommodation Information

- (a) If NO, they did not STOP and provide the Notice to the applicants and/or tenants.
- (b) IF YES, proceed to Step 2.

STEP 2. Did the Applicant or Resident request a Reasonable Accommodation either orally, in writing or in the initial application?

4. If NO, then there is no reasonable accommodation/modification request; therefore, no further steps required under this policy.
5. IF YES, proceed to Step 2.

STEP 3. Does the Applicant or Resident require communication assistance?

- (a) If NO, then proceed to Phase 2.
- (b) IF YES, then follow the Housing Authority's guidelines on communication assistance which can include providing communication aids and then proceed to Phase 2.



PHASE TWO: RESPONDING TO THE REASONABLE ACCOMODATION REQUEST

STEP 1. Provide the Applicant or Resident with the Appropriate Request Forms. Provide the Applicant or Resident with Notice & Request for Reasonable Accommodation form.

- (a) Will the Applicant or Resident Complete the Necessary Forms? If NO, then document the oral request and proceed to the next step.
- (b) IF YES, then provide the person making the reasonable accommodation request the appropriate forms.

STEP 2. Upon receipt of the reasonable accommodation request send the person who has made the request a written receipt documenting that the FHA has received such a request. The Notice of Receipt must be sent to the person who has made the request within fourteen (14) days.

PHASE THREE: QUALIFIED & NEXUS DETERMINATION ANALYSIS.

STEP 1. Is the applicant/resident a qualified “individual with a disability”?

- (a) IF YES, proceed to Step 2.
- (b) If NO, the LHA is not obligated to make a reasonable accommodation/modification; therefore, the LHA may deny the request.
- (c) If more information is needed (VERIFICATION), the LHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication (a copy of the Request for Meeting letter is attached to this Policy and Procedures as Attachment 7).

STEP 2. Is there a nexus between the requested accommodation/modification and the disability?

- (a) If NO, the LHA is not obligated to make the accommodation/modification; therefore, the LHA may deny the request.
- (b) If YES, proceed to Step 3.
- (c) If more information is needed, the LHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication



PHASE FOUR: IS THE R.A. REQUEST REASONABLE & DIRECT THREAT ANALYSIS.

STEP 1. Is the requested accommodation reasonable? This determination will be made by following PROCEDURE 3 - GUIDELINES FOR DETERMINING REASONABLENESS, below.

- (a) If YES, proceed to Step 2.
- (b) If NO, the LHA may deny the request. Submit the denial using the Letter Denying Request for Reasonable Accommodation/Modification.
- (c) If more information is needed, the LHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication.

STEP 2. Does the requested accommodation pose a direct threat.

- (d) If YES, stop and issue a denial
- (e) If NO, then the FHA may approve the request.
- (f) If more information is needed, the LHA will seek additional information as appropriate through the standard Request for Information letter, the standard Request for Meeting letter, and/or other equally effective method of communication.

PHASE FIVE: INTERACTIVE PROCESS: NOT SURE OF REASONABLE ACCOMODATION REQUEST

STEP 1. If at any Phase or Step in the process the FHA is not sure what the person is requesting and/or the FHA simply needs additional information or wants to modify the request then the FHA will issue letter indicating it wants to engage in an interactive process to discuss the request and possible alternative ways to achieving the reasonable accommodation reasonable

STEP 2. FHA submits letter asking for meeting to engage in interactive process.

PHASE SIX: FINAL DECISION ON REASONABLE ACCOMODATION REQUEST

STEP 1. If after reviewing all of the information including possible meetings the FHA approves the reasonable accommodation request if will send a written communication to the person who has made the request notifying them when the request will be implemented. If no final agreement proceed to Step 2

Step 2. If the FHA denies the request it will send to the person who has made the reasonable accommodation request a written notice as to why and what appeal rights the person has.



PART J: FORMS

Attachment 1 – Forms Associated with this Policy

Attachment 2 – Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are Available for Applicants and Residents with Mental and/or Physical Disabilities

Attachment 3 – Request for Reasonable Accommodations/Reasonable Modifications

Attachment 4 – Request for Information or Verification

Attachment 5 – Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request

Attachment 6 – Letter Denying Request for Reasonable Accommodation/Modification

Attachment 7 – Letter Approving Request for Reasonable Accommodation/Modification

Attachment 8 – Request for Meeting

Attachment 9 – Additional Program-Specific Requirements



Attachment 1: Forms Associated with this Policy

<i>CR-10(1)</i>	<i>Notice of Reasonable Accommodation/Modification Information</i>
<i>CR-10(05)</i>	<i>Sample Letter Seeking More Information to Assess Request for Reasonable Accommodation/Modification</i>
<i>CR-10(10)</i>	<i>Request for Information from Third Parties Concerning Reasonable Accommodation/Modification</i>
<i>CR-10(15)</i>	<i>Summary Record of Reasonable Accommodation/Modification and THA Response</i>
<i>CR-10(20)</i>	<i>Approval of Request for Reasonable Accommodation/Modification</i>
<i>CR-10(21)</i>	<i>Approval of Alternative Accommodation/Modification</i>
<i>CR-10(25)</i>	<i>Initial Denial of Request for Reasonable Accommodation</i>
<i>CR-10(30)</i>	<i>Final Denial of Request for Reasonable Accommodation</i>
<i>CR-10(35)</i>	<i>THA Reasonable Accommodation Review Committee Rules</i>
<i>CR-10(40)</i>	<i>Agreement for Reasonable Accommodation</i>
<i>CR-10(45)</i>	<i>Record of Reasonable Accommodation</i>
<i>CR-10(50)</i>	<i>Reasonable Accommodation Implementation Form</i>
<i>CR-10(55)</i>	<i>Service/Assistance/Companion Animal Agreement</i>



Attachment 1: Notice of Availability of Reasonable Accommodations/Modifications

Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are Available for Applicants and Residents with Mental and/or Physical Disabilities

Local Housing Authority (LHA) does not discriminate against applicants or residents on the basis of mental (including psychiatric) or physical disabilities. In addition, the LHA has an obligation to provide "reasonable accommodations" and "reasonable modifications" on account of a disability if a applicant or resident or a household member is limited by the disability and for this reason needs such an accommodation or modification. A reasonable accommodation is a change that the LHA can make to its rules, policies, practices, or services, and a reasonable modification is a change an LHA can make to its facilities (including physical alterations to the housing unit or public or common use areas) that will assist an otherwise eligible person with a disability to have equal opportunity to use and enjoy the housing or common or public use areas or to participate fully in the LHA's programs, activities, or services. Such changes may not be reasonable if they are not financially and programmatically feasible for the housing authority.

An applicant or resident household which has a member with a mental and/or physical disability must still be able to meet essential obligations of tenancy (for example, the household must be able to pay rent, to care for the apartment, to report required information to The LHA, and to avoid disturbing neighbors), but an accommodation or modification may be the basis by which the household is able to meet those obligations of tenancy.

The LHA has an Accommodation Coordinator. If you need an accommodation or modification because of a disability, please complete the attached form and return it to the LHA. Upon reasonable request by the LHA, you must also submit documentation verifying the existence of a disability and the disability-related need for the accommodation or modification. Within thirty (30) calendar days of receipt of your request and documentation, the Accommodation Coordinator will contact you to discuss what the LHA can reasonably do to provide you an accommodation or modification on account of your disability.

If you or a member of your household has a mental and/or physical disability, and as a result needs an accommodation or modification, you, the household member, or authorized representative, may request it at any time. However, you are not obliged to make such a request, and if you prefer not to do so that is your right.

Applicant or Tenant Signature

DATE



Attachment 2: Request for Reasonable Accommodations/Modifications Form

Request for Reasonable Accommodations/Modifications

To: Accommodation Coordinator _____

Housing Authority _____

Address _____

From: _____

Applicant or Resident Name (please print) Control Number

Address

Town/City, State, Zip

(____) _____
Area Code/Telephone Number

1. On account of my disability, I request the following be done in order to permit me to have equal opportunity to use and enjoy the housing or public or common use areas or to participate fully in the Housing Authority's programs, activities, or services: (Describe)

2. This request for a reasonable accommodation/modification is necessary so that I can:

3. Documentation needed to verify the existence of my disability and my disability-related need for the accommodation/modification is attached. (Attach appropriate documentation)

I attest that the foregoing information is true and correct.

Signature of Applicant or Resident (or authorized representative)

Date



Attachment 3 – Request for Information or Verification

[LHA LETTERHEAD]

[LHA Return Address]

Date:

To:

Dear Applicant or Resident:

We have received your request for a reasonable accommodation[modification].

We need to know more about [the disability-related need for your request] [explain issue, simply and clearly stated] before we can decide whether to approve your request.

We need to know more because [provide reason, simple and clearly stated].

You can give us more information by [providing the attached Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request form or by other information demonstrating the disability-related need for your request].

If this is a problem for you, please reach out to our office and so that alternative methods of providing the information may be made available to you.

We will not make a decision on your request for reasonable accommodation/modification until we have this new information.

If you think that you have given us this information, or if you think that we should not ask for this information, please call us at [(xxx)xxx-xxxx], [TTY, (xxx-xxx-xxxx)], or email us at [xxx@xxx.xxx].

[Signature and closing]



Attachment 5 – Verification for Reasonable Accommodation/Modification Request Form

Verification of Disability by Physician or Other Professional
for Reasonable Accommodation/Modification Request

Name of Physician or other professional: _____

Profession: _____

Address

Date _____

Applicant/Resident Name _____

Applicant/Resident Address _____

I hereby authorize release of the following information: _____ (Applicant/Resident
Signature)

A local housing authority (LHA) may request verification that an applicant/resident has a disability to determine whether the applicant/resident needs a reasonable accommodation in the LHA's rules, policies, practices or services, or needs a reasonable modification of the leased premises or public or common use areas, in order to have equal opportunity to use and enjoy the leased premises or the public or common use areas, or to participate fully in the LHA's programs, activities, or services. The above-named applicant/resident has authorized your release of the requested information. We would appreciate your prompt response to the questions on the reverse side of this letter. If you have questions, please contact our office. Thank you for your anticipated cooperation.

Sincerely,

Executive Director and/or Reasonable Accommodation Coordinator



The following proposed reasonable accommodation(s)/reasonable modification(s) to provide the applicant/resident equal opportunity to use and enjoy the LHA's housing, programs, etc. is (are) under consideration by the LHA:

THE FOLLOWING TO BE COMPLETED BY PHYSICIAN (OR OTHER PROFESSIONAL):

1. Based upon your knowledge, does the above-named applicant/resident have a physical or mental impairment which substantially limits one or more major life activities,* or, do you have a record(s) of such an impairment for the above-named applicant/resident? Circle the appropriate answer:

Yes / No

*Note: Determination of whether a physical or mental impairment substantially limits a major life activity is to be made without regard to the ameliorative effects of mitigating measures (e.g., assess substantial limitation of a major life activity, including the operation of a major bodily function, without considering the benefit of medication, assistive devices, etc., to the individual). Furthermore, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

2. Does the applicant/resident have a disability-related need for the abovementioned reasonable accommodation(s)/ reasonable modification(s) based on the physical or mental impairment? Please explain* your response.

*Note: please only provide information that demonstrates there is a relationship between a disability verified by a "yes" response to question 1 above and the need for the proposed reasonable accommodation/modification. Please do not otherwise provide information as to the nature or severity of the disability.

3. Other comments (please do not provide information that is not directly relevant to the reasonable accommodation(s)/reasonable modification(s)):



CERTIFICATION: I certify that the information provided above represents my professional judgment and is true and correct to the best of my knowledge and belief.

Signature of Physician or Professional

Date:

Name: _____

Address: _____

Telephone #: _____



Attachment 5 – Letter Denying Request for Reasonable Accommodation/Modification

[LHA LETTERHEAD]

[LHA return address]

Date:

To:

Dear Applicant or Resident:

We have denied your request for a reasonable accommodation[modification] for the following reasons: [list legal reason (e.g., undue administrative and financial burden to the LHA) simply and clearly stated].

If you have any questions or disagree with this decision and believe you can provide the LHA with additional information as to why the requested accommodation should be approved, please contact us at [(xxx)xxx-xxxx], [TTY (xxx) xxx-xxxx] or [xxx@xxx.xxx].

[Signature and closing]



Attachment 6 – Letter Approving Request for Reasonable Accommodation/Modification

[LHA LETTERHEAD]

[LHA return address]

Date:

To:

Dear Applicant or Resident:

We have approved your request for the following change or reasonable accommodation [modification][description]:

We can provide you with this accommodation [modification] by [date].

[If there is a delay in providing the accommodation, explain the reason for delay simply and clearly].

If you think this change or reasonable accommodation [modification] is not what you requested, if it is not acceptable, if you object to the amount of time it will take to provide it, or otherwise have questions, please contact [XXXX] at [(xxx) xxx-xxxx], [TTY (xxx) xxx-xxxx] or [xxx@xxx.xxx].

[Signature and closing]



Attachment 7 – Request for Meeting

[LHA LETTERHEAD]

[LHA return address]

Date:

To:

Dear Applicant or Resident:

We have received your request for a reasonable accommodation dated [xx/xx/xxxx]. It would help us make our decision if we could meet with you. You are entitled to bring someone to assist you at the meeting.

We would like to meet on [date, time, place] [include remote meeting and telephonic meeting options as an alternative to an in-person meeting]. If you cannot come at that time, please call us at [(xxx) xxx-xxx] and we can find a mutually agreeable date and time.

We will talk about [describe issue, simply and clearly] at this meeting.

Please come ready to talk to us about the changes you want. Please bring copies of any information that you would like to provide us.

We look forward to meeting with you.

If you have questions, or if you need any accommodations for this meeting, please contact [(xxx) xxx-xxxx], TTY (xxx) xxx-xxxx], or [xxx@xxx.xxx].

[Signature and closing]

