

# **Watertown Housing Authority**

## **REASONABLE ACCOMMODATION & MODIFICATION IN HOUSING POLICY AND PROCEDURES**

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**November 2021**

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**EQUAL HOUSING  
OPPORTUNITY**



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## **INTRODUCTION**

This Reasonable Accommodation/Modification in Housing Policy and Procedures, comprised of Part A and Part B, sets forth the policy and procedures of the Watertown Housing Authority (the “WHA” or “HA”) regarding making reasonable accommodations and reasonable modifications for qualified applicants, residents or participants<sup>1</sup> with disabilities for participation in the HA programs and activities. A copy of this Reasonable Accommodation/Modification in Housing Policy and Procedures is posted in WHA common areas and on the WHA website, located at [watertownha.org](http://watertownha.org). Additionally, a copy of this Reasonable Accommodation/Modification in Housing Policy and Procedures may be obtained upon request by contacting Kelsey Forward at 617-923-3961 or [kforward@watertownha.org](mailto:kforward@watertownha.org).

## **PART A: POLICY**

### **SECTION 1. DEFINITIONS**

1.1. The term “ADA” shall mean the Americans with Disabilities Act, as amended.

1.2. The term “FHA” shall mean the Fair Housing Act of 1968, as amended.

1.3. 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

This definition shall be interpreted as further detailed in 28 CFR § 35.108 (Title II ADA regulations).

1.4. The term “Policy” shall mean Part A of this Reasonable Accommodation/ Modification Policy and Procedures, as adopted by the HA Board, and as may be amended from time to time.

1.5. 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 HA’s Board.

1.6. The term “reasonable accommodation” as used herein means a change in the HA’s rules, policies, practices, or services, which may be necessary to provide persons with disabilities an equal opportunity to participate in HA programs, activities, and services, and/or to enjoy HA dwellings or facilities.

1.7 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

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<sup>1</sup> Reasonable accommodation/modification policies with respect to HA employees are governed by any applicable employment policies and state and federal laws as may be amended from time to time.

disabilities an equal opportunity to use and enjoy the premises and/or to access programs, activities, and services.

1.8 The term, “Assistance Animal” as used herein animals that work, provide assistance, or perform tasks for the benefit of a person with a disability or provide emotional support that alleviates one or more identified symptoms or effects of a person’s disability.

Assistance animals are often dogs but may be other animals as well. An animal does not need to be trained to be an assistance animal, though some may receive training.

## SECTION 2. POLICY STATEMENT

The HA 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 HA’s housing services, programs, and facilities, nor otherwise discriminate against individuals with disabilities in connection with the operation of the HA’s housing services or programs. Therefore, if an individual with a disability requires a reasonable accommodation, 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 HA will provide such a reasonable accommodation/modification, unless doing so would result in a fundamental alteration to the nature of the program, an undue financial and administrative burden or is otherwise not required such as in the case of a direct threat exception. Where applicable and appropriate, the HA 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.

The Reasonable Accommodation/Modification in Housing Policy and Procedures outlined here applies to HA applicants, residents and participants who are qualified “individuals with a disability” under applicable law. As described herein the HA may require reliable documentation or verification of the disability (this will not require a description of the cause of the disability, diagnosis, or medical records), that the individual needs the accommodation, and that the accommodation is likely to be effective. As described herein the HA will thoroughly and promptly consider any request for a reasonable accommodation and will explain the basis for any denial to the requester.

## SECTION 3. PURPOSE

This Policy is intended to:

- (a) communicate the HA’s position regarding reasonable accommodations/modifications for persons with disabilities in connection with the HA’s housing programs services, and policies;
- (b) establish a procedural guide for implementing such Policy; and

(c) comply with applicable federal, state and local laws to ensure accessibility for persons with disabilities to housing programs, benefits and services administered by the HA.

#### SECTION 4. AUTHORITY

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<sup>2</sup>;
- (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) 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.

#### SECTION 5. MONITORING AND ENFORCEMENT

The HA Reasonable Accommodation Coordinator, Kelsey Forward is responsible for monitoring the HA’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 Kelsey Forward and [kforward@watertownha.org](mailto:kforward@watertownha.org) in writing, or in person by appointment, at 55 Waverly Ave Watertown or by calling 617-923-3961.

#### SECTION 6. GENERAL PRINCIPLES FOR PROVIDING REASONABLE ACCOMMODATIONS/MODIFICATIONS

Listed below are the general principles which provide a foundation for the Policy and which HA staff should apply when responding to requests for reasonable accommodations/modifications within all HA housing programs:

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<sup>2</sup> [https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf) .

(a) 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 HA may offer equally effective alternatives to the requested accommodation, and/or alternative methods for providing the requested accommodation/modification.

(b) The procedure for evaluation and responding to requests for a reasonable accommodation/modification relies on a cooperative relationship between the HA and the applicant, resident participant or person acting on their behalf. The process is not adversarial. Instead, it is an interactive process, including for the purposes of addressing any needed clarifications as to what is being requested or information that was submitted, any further information that may be needed, and/or in some cases, to discuss alternative accommodations/modifications that may meet the individual's needs.

(c) The HA shall inform all applicants and residents of alternative forms of communication. The Request for Reasonable Accommodations/Modifications form ("Request Form" a copy of which is attached to this Policy and Procedures as Attachment 2) is designed to assist the HA and our applicants, residents and participants. If an applicant, resident or participant does not, or cannot use the Request Form, the HA will still respond to the request for an accommodation/modification. The applicant, resident or participant may also request assistance with the Request Form or may request that the Request Form be provided in an equally effective format or means of communication through auxiliary aids and services.

Some examples of auxiliary aids and services include the following: qualified interpreters, printed material, telecommunications products and systems including text telephones (TTYs), assistive listening devices, or other effective methods of making aurally delivered materials available to persons who are deaf or hard of hearing; qualified readers, taped texts, audio recordings, materials written in Braille, large print materials, or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.

(d) If the accommodation/modification is reasonable (see Procedure 3 below), subject to any applicable limitations, the HA will grant it.

(e) In accordance with Procedure 3 below, the HA 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.

The HA 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 HA, 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.

The HA 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 HA will also set-aside and consult resources as applicable for its state-aided public housing in accordance with PHN 2011-13 and as described in PIH 2010-26.

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 HA does not provide under its program).

(f) In accordance with Procedure 3 below, the HA will grant the request for a reasonable accommodation/modification only to the extent that the direct threat or other exception does not apply.

(g) All written documents required by or as a result of this Policy must contain plain language and be in appropriate alternative formats in order to communicate information and decisions to the person requesting the accommodation/modification.

(h) Any in-person meetings with a person with mobility impairments will be held in an accessible location. Reasonable accommodations will also be made to meet the person’s disability-related needs, including through telephonic or remote meetings, as well as through requested auxiliary aids or services, to ensure the person has an equally effective opportunity to attend and participate.

## SECTION 7. AMENDMENTS

7.1. The Policy and Procedures may be amended only by a vote of the Board of the HA.

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

7.3 Forms. The attached forms and notices may be modified from time to time if others are deemed more appropriate for use by the HA and they are consistent with the policies and procedures set forth herein. The forms and notices attached are illustrative and may be substituted without board approval. They may also be amended to tailor to individual programs where terminology differs. However, they shall remain consistent with the scope of the policy and applicable procedures.

## SECTION 8. STAFF TRAINING

The Reasonable Accommodation Coordinator will ensure that HA staff are familiar with this Policy and Procedures and all applicable federal, state and local requirements regarding reasonable accommodations/modifications. The Reasonable Accommodation Coordinator will avail himself/herself of training opportunities related to anti-discrimination efforts and reasonable accommodations/modifications.

## SECTION 9. OTHER APPLICABLE POLICIES AND LAW

The information in this policy supersedes that set forth in other procedures set forth in other governing documents (i.e., Federal Admissions and Continued Occupancy Policy/Housing Choice Voucher and Massachusetts Rental Voucher Program Administrative Plan). However, to the extent that these policies contain supplemental specific information relevant to those programs that is not contained herein said policy may serve to supplement this reasonable accommodation in housing policy.

Due to the nature of this area of the law this policy and procedures document cannot be an exhaustive compilation of rules or policies governing assessment by HA of requests for reasonable accommodation. If any conflicts exist or arise between these policies and procedures and guidance issued by the U.S. Department of Housing and Urban Development, the Department of Housing and Community Development or existing or future statutes, regulations, or other legal requirements, the HA shall not be estopped from following that guidance.

### **PART B: PROCEDURES**

#### **PROCEDURE 1 - COMMUNICATION WITH APPLICANTS, RESIDENTS AND PARTICIPANTS**

1. At the time of application, all applicants will be provided with the opportunity to request a reasonable accommodation/modification. This may be done on the Common Housing Application for Massachusetts Public-Housing (CHAMP), HCV Centralized Waiting List Full Application<sup>3</sup> or other public housing, Massachusetts Rental Voucher Program, Alternative Voucher Program application if applicable or by paper application for any of these programs, or, upon the applicant's request, in another equally effective format. The Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are available for Applicants and Residents with Mental and/or Physical Disabilities ("Notice") is attached to this Policy and Procedures as Attachment 1.
2. HA applicants, residents, participants 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 HA office reasonable accommodation coordinator at [(617) 923-3961, [TTY English 711 TTY Spanish (866) 930-9252]].
3. The HA is responsible for informing all residents and participants that a request may be submitted for reasonable accommodations/modifications for an individual with a disability. All residents and participants will be provided the Notice and the Request Form when requesting a reasonable accommodation/modification. *However, the Request Form cannot*

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<sup>3</sup> For the HCV program to the extent that the HA utilizes the Centralized Waiting List a preliminary application is utilized to provide initial placement on the waiting list. At that time the CWL administrator provides notice of the right to request a reasonable accommodation, but the HA form set forth in this policy is not provided. It will be provided by the HA at the time of full application.

*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 will respond to the request within ten (10) business days. The response may indicate that the request is under review and the applicant, resident participant will be contacted if further information is required.

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).

In certain circumstance the HA may elect not to require documentation such as for simple routine requests, requests where the disability and need is obvious or known to the housing provider, request for a sign language interpreter, request for alternate format, request for an accessible unit for a family member whose need for the accessible features of the unit is obvious and will be continuous (i.e. grab bars). If the HA makes that determination a written request for verification will not be made by the HA.

If the HA requests that an applicant, resident or participant supply additional information that is reasonably necessary for the HA to make a decision on the individual’s request for an accommodation, the applicant, resident or participant should provide the requested information, or otherwise respond to the HA’s request, within a reasonable time period as provided for by the HA. The time period during which any interactive dialogue on the reasonable accommodation is occurring, or items relevant to the request are awaiting verification will extend the time frame for the decision.

Sometimes the Housing Authority may request a meeting with the applicant, resident or participant in order to assist with the decision. If the Housing Authority requests a meeting to discuss the request for reasonable accommodation it will use the form entitled Request for Meeting which is Attachment 7 to this policy. When this letter is sent to an applicant/resident/participant it will stop the tolling of the 30 days to make the decision from the date of the letter until the date of the meeting or the provision of additional information as requested in the meeting.

4. The HA 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 HA’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.

5. The HA will maintain at its offices written materials which summarize this Policy and highlights the Procedures for making a request for reasonable accommodation/modification.
6. On occasion it may be necessary for the HA to respond to the individual in the form of written correspondence which differs from the standard forms set forth within these Policies and Procedures. This is acceptable provided that said correspondence meets the basic requirements of the form.

## PROCEDURE 2 - SEQUENCE FOR MAKING DECISIONS

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

- (a) If NO, the HA is not obligated to make a reasonable accommodation/modification; therefore, the HA may deny the request.
- (b) IF YES, proceed to Step 2.
- (c) If more information is needed, the HA 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 the requested accommodation/modification related to the disability?

- (a) If NO, the HA is not obligated to make the accommodation/modification; therefore, the HA may deny the request.
- (b) If YES, proceed to Step 3.
- (c) If more information is needed, the HA 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 3.** Is the requested accommodation reasonable? This determination will be made by following PROCEDURE 3 - GUIDELINES FOR DETERMINING REASONABLENESS, below.

- (a) If YES, the HA will approve the request for reasonable accommodation/ modification. A written description of the accommodation/modification will be prepared and included in the Letter Approving Request for Reasonable Accommodation/Modification.
- (b) If NO, the HA may deny the request. Submit the denial using the Letter Denying Request for Reasonable Accommodation/Modification.
- (c) If more information is needed, the HA 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.

### PROCEDURE 3 -GUIDELINES FOR DETERMINING REASONABLENESS

1. In accordance with Section 6.1 of the Policy, the HA 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 HA, the HA 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 HA services and activities. Additionally, the HA may offer equally effective alternatives to the requested accommodation/modification, and/or alternative methods for providing the requested accommodation through the interactive process.

If a requested accommodation is unlikely to provide the disabled individual with an equal opportunity to use and enjoy the housing, the HA need not grant that accommodation.

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.
  - (a) The factors which shall be considered in determining whether a requested accommodation would create an undue financial or administrative burden on the WHA are:
    - a) the nature of the accommodation;
    - b) the cost of the accommodation;
    - c) the WHA's financial and administrative resources;
    - d) the size of the housing program;
    - e) the type of unit or facilities involved; and
    - f) the possibility of recouping costs from another source.

The determination of whether an accommodation/modification constitutes an undue financial or administrative burden shall be made on a case-by-case basis, taking into account the circumstances and resources available at the time of the decision.

If granting the requested accommodation would create an undue financial or administrative burden, the HA shall comply with the request to the extent it can do so without undergoing undue burden(s) if it is determined that this modified accommodation or modification would still make the program usable for an accessible by the individual requesting the accommodation.

If there are a number of different accommodations that would satisfy the needs of the person with the disability, the HA may select the option which is most convenient and cost effective.

- (b) In determining whether a requested accommodation would cause a fundamental alteration in the nature of the housing program, the HA shall consider whether the accommodation sought would require it to conduct activities which extend beyond the

scope of its primary purpose, i.e. to operate low-income public housing, to administer Housing voucher assistance, to assure that residents comply with their lease and program obligations, and the practical components necessary to achieve those purposes. For example, a request for the HA to provide childcare, nursing services or other services not directly related to housing would constitute a fundamental change in the nature of the program the HA provides.

3. The responsibility for the decision that a proposed reasonable accommodation/ modification would result in such undue burdens or would fundamentally alter the nature of the program shall rest with the Executive Director or his/her designee. For undue burden this will take into consideration 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, if applicable, the HA 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.

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 HA’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 HA’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 HA will take into account circumstances, such as intervening treatment or medication, which have eliminated the direct threat (*i.e.*, a significant risk of substantial harm).

In making this determination the HA will make an individualized assessment based upon reasonable judgment that relies on current medical knowledge where applicable or on the best available objective evidence to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modification of policies practices or procedures will mitigate the risk.

5. Verification. The HA 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 HA’s activities, programs, or services.

In response to reasonable accommodation/modification requests, the HA may not require verification of disability if the disability is obvious or otherwise known. The HA also may not ask what the disability is or require specific details as to the disability. The HA may require verification of disability and 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 disability or need is obvious or otherwise known. The HA 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.

Verification documentation must come from a reliable source with sufficient professional and personal knowledge of the applicant to verify the disability and need for the accommodation where applicable. Where applicable certain additional specific information will be required for approval of Support Animals as outlined in HUD FHEO Notice 2020-01.

6. Reasonable Accommodation and Lease Violations. Where a resident with a disability engages in a lease violation, the HA shall approach the situation as with any other resident except that if the resident requests reasonable accommodation in order to comply with the lease, the request shall be considered. At any private conference with a resident on a lease violation, the HA management shall inform of the right to request reasonable accommodation and have the form readily available.

Although the HA must make reasonable accommodation to enable a person with a disability to comply with the requirements of his/her lease, an accommodation is not reasonable if it would require a fundamental alteration in the nature of the program or would impose undue financial and administrative burdens on the HA. Further, if the Housing Authority determines that there is still a high likelihood of the individual being a threat to the health or safety of others which cannot be eliminated by a modification of policies, practices or procedures or the provision of auxiliary aids and services in accordance with the plan and applicable law the HA need not grant the accommodation

See previous discussion within this policy/procedure for considerations on a whether a requested accommodation would fundamentally alter the nature of the housing program and the considerations in likelihood of threat. In addition, the provision of reasonable accommodation shall not require the lowering or waiving of essential eligibility requirements for the housing program.

A resident or participant with a disability has the right to refuse reasonable accommodation. However, if a resident or participant who has refused reasonable accommodation engages in lease violating behavior, the HA may enforce the lease or program requirements and seek appropriate remedies including eviction or termination as with any other resident or participant.

If a disabled resident who has committed a lease violation requests a reasonable accommodation in order to comply with his/her lease, the HA must in considering the request, determine whether it is reasonable to believe that the problem is not likely to recur with the accommodation sought. For this purpose, the HA may request the resident to provide appropriate information, documentation or verification within a reasonable time period. If management believes that, based on objective information, the accommodation is not likely to solve the lease problem, the accommodation may be denied.

If a resident or participant with a disability engages in persistent lease or program violating behavior and refuses requests to discuss the problem or possible reasonable accommodation, the HA shall proceed as it would with any other resident or participant under similar circumstances.

a. State Assisted Housing

For programs subject to 760 CMR 5.08(2) and/or 760 CMR 6.03 & 6.08, When an HA 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 HA as mitigating circumstances pursuant to 760 CMR 5.08(2).

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

b. Other Programs

To the extent that the HA administers the following programs: Federal Public Housing, Federal Housing Choice Voucher Program, the Massachusetts Rental Voucher Program, the Massachusetts Alternative Housing Voucher Program, and they are not subject to the regulations in the preceding paragraph programs lease violations which are the cause for denial, termination or eviction may be raised as mitigating circumstances. This may take place at or before an informal hearing, and informal review or grievance as applicable to the underlying action (denial, termination, or eviction). Such circumstances may also be presented separately through a reasonable accommodation request (e.g., a request to forego eviction) independent of the informal review, hearing or grievance process.

7. Confidentiality. Information provided to the HA 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.

#### PROCEDURE 4 -REASONABLE ACCOMMODATION REQUESTS MADE AT AN INFORMAL REVIEW, INFORMAL HEARING OR GRIEVANCE HEARING

Where an applicant, resident or participant raises a request for a reasonable accommodation at the time of an informal review, informal hearing or grievance hearing the decision may be made by the Hearing Officer utilizing the principles set forth within this policy/procedure document. At the discretion of the Hearing Officer, the Hearing Officer may elect to require the Housing Authority to make the decision on the reasonable accommodation and provide a new date for the informal review, informal hearing or grievance hearing. If the Housing Authority denies the request for a reasonable accommodation this denial will also be considered by the hearing officer at the rescheduled informal review, informal hearing or grievance hearing.

#### PROCEDURE 5 –ASSISTANCE ANIMALS

1. In tenant-based programs with private landlords it is up to the landlord rather than the HA to decide whether or not an assistance animal will be approved as a reasonable accommodation. To the extent that the family disagrees with the landlord’s determination they may be provided with information regarding fair housing laws by the Housing Authority and where appropriate may be issued a voucher for relocation.
2. When an individual requests an assistance animal they will be provided with a copy of the Request for Reasonable Accommodation Form and the “FHEO Guidance on Documenting an Individual’s Need for Assistance Animals in Housing” document which is attached to FHEO 2020-01 and appended to this Policy.
3. Requests for support animals are reviewed under this Reasonable Accommodation/Modification in Housing Policy and Procedures document as requests for a Reasonable Accommodation. Additional information relative to Assistance Animal requests is set forth below.
4. Pursuant to FHEO 2020-01 the verification should include:
  - (a) The patient’s<sup>4</sup> name.
  - (b) Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services.
  - (c) The type of animal(s) for which the reasonable accommodation is sought.
5. Unique Animals. Unique Animals are those not commonly kept in households. They are animals other than: a dog, cat, small bird, rabbit, hamster, gerbil, guinea pig, fish, turtle. In

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<sup>4</sup> While FHEO 2020-01 uses the term “patient” is it possible that the provider may be other than a health care professional if they have sufficient professional and personal knowledge of the applicant to verify the disability and need for the accommodation where applicable.

its discretion the HA may also consider other small, domesticated animals that are traditionally kept in the home for pleasure as commonly kept in households and not unique animals.

If the request is to keep a unique type of animal, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. Examples include an animal is individually trained to do work or perform tasks that cannot be performed by a dog; Information from a health care professional confirms that allergies prevent the person from using a dog; Information from a health care professional confirms that without the particular animal, the symptoms or effects of the person's disability will be significantly increased.

In addition to the information requested above, HUD FHEO 2020-01 also suggests the following should be provided when the request is for a unique animal. The WHA will request this information when a request has been made for a unique animal.

- (a) The date of the last consultation with the patient<sup>5</sup>,
  - (b) Any unique circumstances justifying the patient's need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and
  - (c) Whether the health care professional has reliable information about this specific animal or whether they specifically recommended this type of animal.
6. Online Documentation. Generally, certificates registrations and licensing documents for assisted animals that are generated through websites will not be deemed acceptable verification. The Housing Authority requires reliable documentation as to the fact that a disability exists and the disability related need for the accommodation if it is not obvious or otherwise known. A letter from a legitimate health care professional that provides services over the internet is acceptable when the provider has personal knowledge of the individual's disability and need for the accommodation.
7. Denial or Removal of an Approved Assistance Animal. Denials of approval for an assistance animal are governed by the Reasonable Accommodation policy. Pursuant to the policy requests will be approved if:
- (a) The subject of the request is a qualified "individual with a disability" as defined therein, and
  - (b) The requested accommodation is related to the disability and is necessary to provide an equal opportunity to use and enjoy the housing, and

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<sup>5</sup> While FHEO 2020-01 uses the term "patient" it is possible that the provider may be other than a health care professional if they have sufficient professional and personal knowledge of the applicant to verify the disability and need for the accommodation.

- (c) The requested accommodation is reasonable. A request shall be considered “reasonable” if it does not create an undue financial or administrative burden or constitute a fundamental alteration in the nature of the housing program.

The additional information requested under HUD FHEO 2020-01 and this Procedure 5 Assistance Animals will also be taken into consideration as part of this analysis.

The HA will prohibit keeping of animals if:

- (a) The animal is out of control and its handler does not take effective action to control it; or
  - (b) The animal is not housebroken; or
  - (c) The individual animal (as opposed to a general animal of its breed or size) poses a direct threat to the health or safety of others, or would cause substantial physical damage to the property of others, which cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices, and procedures; or
  - (d) Allowing the Resident to keep the animal would impose an undue financial and administrative burden on HA or fundamentally alter the nature of the housing program.
8. Care and Handling for Service and support Animals. Assistance animals are not considered “pets.” The HA’s Resident pet policies do not apply. HAs have the authority to regulate Assistance Animals under applicable federal, state, and local law. (FR Vol 73, No. 208). there are still legal limitations related to the care and keeping of Assistance Animals which will be addressed herein.

Residents must care for Assistance Animals in a manner that complies with state and local laws, including anti-cruelty laws. Residents must ensure that Assistance Animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident’s care or handling of an Assistance Animal violates these policies, the HA may withdraw the approval of a particular service and support animal. Upon request the HA will consider whether the violation could be reduced or eliminated by a reasonable accommodation.

The HA requires that clients execute a service and support animal agreement to ensure that all parties are aware of the rights and responsibilities with regard to the care and handling of service and support animals under the law. Further, all reasonable lease provisions relating to health and safety apply to service and support animals such as maintaining the premises in a clean and sanitary condition and ensuring that neighbors enjoy their premises in a safe and peaceful manner.

9. Appeals for Denial of Service and Support Animals. HA requests to remove a service and support animal from the unit due to violations of this policy, other applicable law and/or lease violating behavior will be governed by the applicable appeal procedure for the program under which the family is assisted.

**ATTACHMENTS:**

Attachment 1 - Notice of Availability of Reasonable Accommodations/Modifications

Attachment 2 - Request for Reasonable Accommodations/Modifications Form

Attachment 3 – Request for Information or Verification

Attachment 4 – Verification for Reasonable Accommodation/Modification Request Form

Attachment 5 – Letter Denying Request for Reasonable Accommodation/Modification

Attachment 6 – Letter Approving Request for Reasonable Accommodation/Modification

Attachment 7 – Request for Meeting

Attachment 8 – Assistance Animal Agreement

Attachment 10 - Summary of Reasonable Accommodation/Modification in Housing Policy and Highlights of the Procedures for Making a Request for Reasonable Accommodation/Modification

## **Attachment 1: Notice of Availability of Reasonable Accommodations/Modifications**

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

The Housing Authority (HA) does not discriminate against applicants, residents or participants on the basis of mental (including psychiatric) or physical disabilities. In addition, the HA has an obligation to provide "reasonable accommodations" and "reasonable modifications" on account of a disability if an applicant, resident or participant 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 HA can make to its rules, policies, practices, or services, and a reasonable modification is a change an HA 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 HA'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 resident or participant 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 HA, 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 HA 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 HA. Upon reasonable request by the HA, 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 HA 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.

**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**

[HA LETTERHEAD]

[HA 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 4 – 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 housing authority (HA) may request verification that an applicant/resident has a disability to determine whether the applicant/resident needs a reasonable accommodation in the HA'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 HA'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 HA's housing, programs, etc. is (are) under consideration by the HA:

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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.

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\*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)):

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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**

[HA LETTERHEAD]

[HA 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 HA) simply and clearly stated].

If you have any questions or disagree with this decision and believe you can provide the HA 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**

[HA LETTERHEAD]

[HA 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**

[HA LETTERHEAD]

[HA 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]'

## Attachment 8 – FHEO Handout re: Assistance Animals

### Guidance on Documenting an Individual’s Need for Assistance Animals in Housing

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This section provides best practices for documenting an individual’s need for assistance animals in housing. It offers a summary of information that a housing provider may need to know from a health care professional about an individual’s need for an assistance animal in housing. It is intended to help individuals with disabilities explain to their health care professionals the type of information that housing providers may need to help them make sometimes difficult legal decisions under fair housing laws. It also will help an individual with a disability and their health care provider understand what information may be needed to support an accommodation request when the disability or disability-related need for an accommodation is not readily observable or known by the housing provider. Housing providers may not require a health care professional to use a specific form (including this document), to provide notarized statements, to make statements under penalty of perjury, or to provide an individual’s diagnosis or other detailed information about a person’s physical or mental impairments.<sup>49</sup> Housing providers and the U.S. Department of Housing and Urban Development rely on professionals to provide accurate information to the best of their personal knowledge, consistent with their professional obligations. This document only provides assistance on the type of information that may be needed under the Fair Housing Act (FHA). The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Further, this document does not create any obligation to provide health-care information and does not authorize or solicit the collection of any information not otherwise permitted by the FHA.<sup>50</sup>

The Appendix to this Guide answers some commonly asked questions about terms and issues below. An understanding of the terms and issues is helpful to providing this information.

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When providing this information, health care professionals should use personal knowledge of their patient/client – *i.e.*, the knowledge used to diagnose, advise, counsel, treat, or provide health care or other disability-related services to their patient/client. **Information relating to an individual’s disability and health conditions must be kept confidential and cannot be shared with other**

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<sup>49</sup> See Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (“Joint Statement”), Q and A’s 13, 16-18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>50</sup> This guidance does not expand on the obligations under the FHA or HUD’s regulations and should be construed consistently with Executive Order 13891 of October 9, 2019 entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents,” Executive Order 13892 of October 9, 2019 entitled “Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication,” the Department of Justice Memorandum of January 25, 2018 entitled “Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases,” and the Department of Justice Memorandum of November 16, 2017 entitled “Prohibition on Improper Guidance Documents.”

persons unless the information is needed for evaluating whether to grant or deny a reasonable accommodation request or unless disclosure is required by law.<sup>51</sup>

As a best practice, documentation contemplated in certain circumstances by the Assistance Animals Guidance is recommended to include the following general information:

- The patient's name,
- Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services, and
- The type of animal(s) for which the reasonable accommodation is sought (i.e., dog, cat, bird, rabbit, hamster, gerbil, other rodent, fish, turtle, other specified type of domesticated animal, or other specified unique animal).<sup>52</sup>

**Disability-related information.** A disability for purposes of fair housing laws exists when a person has a physical or mental impairment that substantially limits one or more major life activities.<sup>53</sup> Addiction caused by current, illegal use of a controlled substance does not qualify as a disability.<sup>54</sup> As a best practice, it is recommended that individuals seeking reasonable accommodations for support animals ask health care professionals to provide information related to the following:

- Whether the patient has a physical or mental impairment,
- Whether the patient's impairment(s) substantially limit at least one major life activity or major bodily function, and
- Whether the patient needs the animal(s) (because it does work, provides assistance, or performs at least one task that benefits the patient because of his or her disability, or because it provides therapeutic emotional support to alleviate a symptom or effect of the disability of the patient/client, and not merely as a pet).

Additionally, if the animal is not a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, it may be helpful for patients to ask health care professionals to provide the following additional information:

- The date of the last consultation with the patient,
- Any unique circumstances justifying the patient's need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and
- Whether the health care professional has reliable information about this specific animal or

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<sup>51</sup> See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

<sup>52</sup> See, e.g., *Janush v. Charities Housing Development Corporation*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal. 2000) (rejecting an argument that a definition of "service dog" should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, finding that "the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.").

<sup>53</sup> 24 C.F.R. § 100.201.

<sup>54</sup> 24 C.F.R. § 100.201.

whether they specifically recommended this type of animal.

It is also recommended that the health care professional sign and date any documentation provided and provide contact information and any professional licensing information.

## Appendix

### **What are assistance animals?**

Assistance animals do work, perform tasks, provide assistance, or provide emotional support for a person with a physical or mental impairment that substantially limits at least one major life activity or bodily function.<sup>55</sup>

### **What are physical or mental impairments?**

Physical or mental impairments include: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability; or

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 infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.<sup>56</sup>

### **What are major life activities or major bodily functions?**

They are: seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working.<sup>57</sup>

Other impairments – based on specific facts in individual cases -- may also substantially limit at least one major life activity or bodily function.<sup>58</sup>

### **What are Some Examples of Work, Tasks, Assistance, and Emotional Support?**

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<sup>55</sup> See 24 C.F.R. §§ 5.303; 960.705.

<sup>56</sup> See 24 C.F.R. § 100.201.

<sup>57</sup> See 24 C.F.R. § 100.201(b).

<sup>58</sup> See 24 C.F.R. § 100.201.

Some examples of work and tasks that are commonly performed by service dogs include<sup>59</sup>:

- Assisting individuals who are blind or have low vision with navigation and other tasks,
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
- Providing non-violent protection or rescue work,
- Pulling a wheelchair,
- Alerting a person with epilepsy to an upcoming seizure and assisting the individual during theseizure,
- Alerting individuals to the presence of allergens,
- Retrieving the telephone or summoning emergency assistance, or
- Providing physical support and assistance with balance and stability to individuals with mobilitydisabilities.

Some other examples of work, tasks or other types of assistance provided by animals include:<sup>60</sup>

- Helping persons with psychiatric and neurological disabilities by preventing or interruptingimpulsive or destructive behaviors,
- Reminding a person with mental illness to take prescribed medication,
- Alerting a person with diabetes when blood sugar is high or low,
- Taking an action to calm a person with post-traumatic stress disorder (PTSD) during an anxietyattack,
- Assisting the person in dealing with disability-related stress or pain,
- Assisting a person with mental illness to leave the isolation of home orto interact with others,
- Enabling a person to deal with the symptoms or effects of major depression by providing areason to live, or
- Providing emotional support that alleviates at least one identified symptom or effect of aphysical or mental impairment.

What are examples of a patient’s need for a unique animal or unique circumstances?<sup>61</sup>

- The animal is individually trained to do work or perform tasks that cannot be performed by adog.
- Information from a health care professional confirms that:
  - Allergies prevent the person from using a dog, or
  - Without the animal, the symptoms or effects of the person’s disability will besignificantly increased.
- The individual seeks a reasonable accommodation to a land use and zoning law, HomeownersAssociation (HOA) rule, or condominium or co-op rule.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animalcan be appropriately maintained.

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<sup>59</sup> See 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

<sup>60</sup> See, e.g., *Majors v. Housing Authority of the County of DeKalb Georgia*, 652 F.2d 454, 457 (5th Cir. 1981); *Janush*, 169 F.Supp.2d at 1136-37.

<sup>61</sup> See, e.g., *Anderson v. City of Blue Ash*, 798 F.3d 338, 360-63 (6th Cir. 2015) (seeking a reasonable accommodation to keep a miniature horse as an assistance animal

**Attachment 9 – Assistance Animal Agreement**

Address: \_\_\_\_\_

Tenant Name: \_\_\_\_\_ Unit Number: \_\_\_\_\_

*The Assistance Animal is excluded from the Pet Rules for this development. The following document relates to compliance with federal state or local law and safety concerns.*

*The following service/support animal has been approved in accordance with HA Policy:*

\_\_\_\_\_  
*Name description (animal type breed color weight)*

*This approval is for the above-named animal only and shall not automatically extend to another Assistance Animal until and unless prior written consent is obtained for such alternative Assistance Animal.*

The tenant will provide the name, address, and telephone number, in the space provided below, of two animal caretakers who by signing this form you allow to assume responsibility for the animal should the tenant become unable to care for the animal.

Animal Caretaker #1:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Signature: \_\_\_\_\_

Animal Caretaker #2:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Signature: \_\_\_\_\_

If the tenant is unable to provide the name of an animal caretaker provide details of other arrangement which have been made for the proper care of the animal in your absence here:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

*Unless otherwise agreed upon in writing, or there is an exemption based upon other law the following conditions apply:*

1. The animal must be in control and its handler must take effective action to control it. When in interior common areas animals must be harnessed, leashed, or tethered, or placed in the appropriate transport

container or cage for the animal unless these devices interfere with the service animal's work, the support animal's purpose or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

2. The animal must be housebroken.
3. The animal must not pose a direct threat to the health or safety of others.
4. The animal must not cause substantial physical damage to the property of others.
5. The animal must not behave in such a manner so that a reasonable person would believe it poses an unjustified imminent threat of physical injury.
6. The animal must not excessively bark or make noise to such a level that a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment.
7. The tenant must ensure the clean up all pet waste and dispose of in a clean and sanitary manner. Disposal must be made only by placing the pet waste in a sealed plastic bag and placing the bag in a dumpster or other place designated by the HA. Pet waste or pet litter shall not be deposited in the toilet.
8. The tenant must abide by current city, county, and state ordinances, laws, and/or regulations pertaining to licensing, vaccination, care and keeping and other requirements as applicable to its service/support animal. It is the tenant's responsibility to know and understand these ordinances, laws, and regulations. The HA has the right to require documentation of compliance with such ordinances, laws, and/or regulations, which may include a vaccination certificate. The HA reserves the right to request documentation showing that the animal has been licensed.
9. The tenant must provide care, feeding, flea and odor control and supervision of the animal.
10. The tenant must pay for damages caused by the animal.
11. There may be other reasonable conditions or restrictions on a support animal depending on the nature and characteristics of the support animal. Where applicable said other reasonable conditions are set forth in the reasonable accommodation approval notice attached hereto an incorporated herein by reference.

*To the extent that any of the above conditions could be met with a reasonable accommodation the tenant may make such request to the HA.*

By signing below, the tenant acknowledges they agree to comply with the terms of this Agreement, federal regulations, and state & local law relating to the care and keeping of the animal and acknowledges that failure to abide by the Agreement shall constitute a violation of the terms of the Agreement at which time the tenant may be required to remove and/or replace the Assistance Animal that is causing the violation(s). The tenant also acknowledges that the statements made to the Housing Authority in connection with assistance animal approval are material representations and falsification may subject the resident to termination of tenancy.

\_\_\_\_\_  
Tenant Signature

\_\_\_\_\_  
HA Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date

**Attachment 10. Summary of Reasonable Accommodation/Modification in Housing Policy and Highlights of the Procedures for Making a Request for Reasonable Accommodation/Modification**

The Watertown Housing Authority does not discriminate on the basis of a disability and will provide a reasonable accommodation/modification where required under applicable law. A reasonable accommodation is a change that the HA can make to its rules, policies, practices, or services, and a reasonable modification is a change an HA can make to its facilities 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 HA's programs, activities, or services. Such changes may not be reasonable if they are not financially and programmatically feasible for the housing authority or if they would pose a direct threat.

All applicants/participants and tenants will be provided notice of the right to request a reasonable accommodation and a request may be made at any time from application, residency or participation to termination or eviction.

The HA has the following forms to assist with this process: Notice to All Applicants and Residents: Reasonable Accommodations and Modifications are Available for Applicants and Residents with Mental and/or Physical Disabilities, Request for Reasonable Accommodations/Reasonable Modifications, Request for Information or Verification, Verification of Disability by Physician or Other Professional for Reasonable Accommodation/Modification Request, Letter Denying Request for Reasonable Accommodation/Modification, Letter Approving Request for Reasonable Accommodation/Modification, Request for Meeting. While forms may assist families, they are not mandated for use by the Housing Authority and the HA will accept verification and requests in the format provided by the applicant tenant or participant.

The HA will utilize the information provided by the requestor to determine if he/she is a person with a disability under applicable law, if there is a nexus between the disability and the request for accommodation or modification and if the request would result in an undue burden (in terms of costs or administration) on the part of the housing authority or if it fundamentally alters the role of the HA which is generally to provide low income housing. Last where applicable there will be a determination as to whether there is a direct threat in the provision of this accommodation/modification, or another other legal exception applies.

The reasonable accommodation coordinator for the WHA is Kelsey Forward and [kforward@watertownha.org](mailto:kforward@watertownha.org) in writing, or in person by appointment, at 55 Waverly Ave Watertown or by calling 617-923-3961 TTY English 711 Spanish [\(866\) 930-9252](tel:(866)930-9252).