

# Fair Housing for Individuals with Mental Health, Intellectual, or Developmental Disabilities: A Guide for Housing Providers



Visit [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing)  
or call the National Discrimination Hotline at  
**1-800-669-9777** or **1-800-877-8339** (Federal Relay)



## What Housing Providers Need to Know

Fair housing laws prohibit discrimination in housing against individuals with disabilities, including individuals with mental health, intellectual, or developmental disabilities. Individuals with mental health, intellectual, and developmental disabilities have faced many types of discrimination, including being required to live in institutions and other segregated settings. There is a great need for affordable, integrated, community-based housing options where individuals with disabilities can live free from discrimination. Individuals with disabilities have the right to live independently in the community with any supports that they need, such as health care services, a caregiver or live-in aide, or other short or long-term services or supports. Access to community-based housing options is also necessary to ensure that individuals with disabilities are not forced to remain in institutional settings.

Individuals with disabilities have rights of self-determination and independence. Some individuals with disabilities may seek or require assistance with certain activities and may utilize the services of an advocate, representative, or guardian. In such cases, housing providers should ensure advocates and representatives are appropriately involved in decision-making. Housing providers may not make paternalistic or discriminatory decisions about what is in the person's best interest.

## Fair Housing Laws that Prohibit Disability Discrimination

The Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act prohibit housing discrimination against individuals with disabilities. These laws, among other things, require that individuals with disabilities be provided the same housing opportunities that are provided to individuals without disabilities. Individuals entitled to these protections include those who have a physical or mental impairment that substantially limits one or more major life activities.

## What are examples of protected mental health, intellectual, and developmental disabilities?

Protected disabilities include (but are not limited to) mental health, psychological, intellectual, and developmental conditions, such as organic brain syndrome, , depression, anxiety, bipolar disorder, post-traumatic stress disorder (PTSD), specific learning disabilities, autism, down syndrome, traumatic brain injuries, alcoholism, and drug addiction (other than addiction caused by current, illegal drug use). **How do individuals with mental health, intellectual, or developmental disabilities commonly experience housing discrimination?**

Under the fair housing laws, it is illegal to discriminate against individuals based on disability. The following are some examples of discrimination prohibited under fair housing laws:

- ◆ Asking about whether a person has a disability or about the nature of a person's disability during the application process, unless the housing provider asks all applicants about whether they have a disability to determine if they are qualified for housing available only to individuals with disabilities
- ◆ Refusing to provide information about or show available housing to a person or someone they live with because of a disability
- ◆ Refusing to rent or sell to a person because of a disability
- ◆ Denying housing because an applicant lived in an institutional setting or group home
- ◆ Placing different terms or conditions upon the rental of available housing, such as charging a higher rent or security deposit because of a disability

- ◆ Placing different terms or conditions on housing because an applicant lived in an institutional setting, such as requiring more documentation or completion of an additional screening approval process
- ◆ Refusing to grant reasonable accommodations or allow reasonable modifications that may be necessary for a person or someone they live with who has a disability to have an equal opportunity to use or enjoy their housing
- ◆ Restricting a person from living in certain units or sections of a housing complex because of a disability
- ◆ Using stricter screening criteria because of a disability
- ◆ Advertising in a discriminatory way to discourage individuals with disabilities from applying for housing
- ◆ Evicting a resident or someone they live with because of a disability
- ◆ Harassing a person or someone they live with because of a disability
- ◆ Asking questions about treatment or medications
- ◆ Requiring persons to accept placement in a congregate housing development occupied exclusively or primarily by individuals with the same or similar disabilities

## What are permissible activities under the fair housing laws?

A housing provider can screen applicants for available housing and can create rules or codes of conduct for residents if the screening, rules, and codes are applied in the same way to all people, are not discriminatory, and if housing providers make reasonable accommodations to any policies, practice, rules, and codes when they may be necessary for an individual with a disability. Housing providers may not discriminate based upon fear, bias, or generalizations about individuals with disabilities.

## What are reasonable accommodations and modifications?

Reasonable accommodations and modifications are changes in rules, policies, practices, services, or the physical structure of a dwelling to afford a person with a disability an equal opportunity to use and enjoy housing. In HUD-assisted housing, structural changes to units, public and common use areas would fall under the category of reasonable accommodations that the housing provider must provide. Some examples of reasonable accommodation or modification requests may include:

- ◆ Asking to have an assistance animal when there is a “no pets” policy
- ◆ Asking for help with completing an application or other paperwork
- ◆ Asking that a housing provider allow a live-in aide or other support services
- ◆ Extending limited application periods and permitting flexible application procedures or locations
- ◆ Asking to change the due date for rent until after receipt of a social security disability check or a short- or long-term disability payment
- ◆ Asking for physical changes to a dwelling or common area related to mobility or sensory needs
- ◆ Asking to remain on a waiting list after not responding to requests within the time period because of a disability-related reason
- ◆ Asking for additional time to move into a unit when an applicant reaches the top of a waiting list but cannot move because of a disability-related reason, such as treatment or hospitalization
- ◆ Accepting alternate references, like a social worker, when a prospective tenant may have limited or no recent rental or employment history due to a hospitalization

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## What kinds of information may a housing provider request from an individual with a disability who is requesting a reasonable accommodation or modification?

If the disability and the need for the request are obvious or already known to the housing provider, the provider cannot ask for any other information. Housing providers can ask for information that is necessary to evaluate if a requested reasonable accommodation or modification may be necessary because of a disability only if the disability or the disability-related need for the accommodation or modification is not obvious or known to the housing provider. Housing providers must consider reasonable accommodation and modification requests even if the requester does not use the preferred forms or procedures. Housing providers may engage in an interactive process with the individual at any time in this process, but must do so before denying a request.

**Fair housing is good business. It's also the law.**

To learn more, visit [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing) or contact your [local HUD office](#), state or local fair housing organization.

Please also visit the following links to learn more about:

- ◆ [Rights of Individuals with Disabilities Under Fair Housing Laws](#)
- ◆ [Section 504 Frequently Asked Questions](#)
- ◆ [Reasonable Accommodations under the Fair Housing Act](#)
- ◆ [Reasonable Modifications under the Fair Housing Act](#)
- ◆ [Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act](#)
- ◆ [HUD's Statement on the Role of Housing in Accomplishing the Goals of Olmstead](#)