

## REASONABLE ACCOMMODATION POLICY

### **A. Introduction**

1. The Worcester Housing Authority (WHA) does not discriminate on the basis of race, color, religious creed, national origin, sex, ancestry, sexual orientation, age, marital status, gender identity, or disability, in the access or admission to its programs or employment, activities, functions or services.
2. The WHA is covered by Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Titles II and III, the Fair Housing Act and Massachusetts Chapter 151B as well as other federal, state and local fair housing laws, regulations, and policies which require reasonable accommodation to persons with disabilities as defined in those laws.
3. A notice of the right to reasonable accommodation shall be posted in the management offices and program offices, and shall be included with applications for housing programs, recertification packets and other appropriate program notifications.
4. This policy applies to the WHA's Leased Housing and Public Housing Programs and is incorporated by reference into the Administrative Plan and the Admissions and Continued Occupancy Policy.

### **B. What is a Reasonable Accommodation/Modification?**

1. A reasonable accommodation is a change or modification of WHA's policies, practices, or procedures for people with disabilities that is necessary to insure equal access to WHA's premises, amenities, services and programs. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.
2. The definition of a person with a disability for purposes of a reasonable accommodation follows the definition in Section 504 of the Rehabilitation Act, the American with Disabilities Act, the Federal Fair Housing Act, Massachusetts General Laws Chapter 151B and any other applicable statutes:
  - a. "Disability" means a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.
  - b. Major life activities include, but are not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, breathing, learning, working, thinking, eating, standing, lifting, concentrating, communicating, and sleeping.
3. Exceptions:
  - a. The term disability does not include current use or current addiction to illegal drugs. "Current" means:
    - i. The drug use occurred recently enough to justify a reasonable person to believe

- ii. The drug use is continuing and is a real and ongoing problem.
  - b. Where there is evidence of prior use of illegal drugs and the requestor contends they are not engaged in current use, the requestor must provide evidence of recovery and be willing and able to be compliant with either the public housing or subsidized housing lease.
- 4. An individual is not eligible for a reasonable accommodation or modification if:
  - a. They pose a direct threat to the health or safety of other individuals and this cannot be mitigated by a reasonable accommodation; or
  - b. They would cause substantial damage to property; or
  - c. They are not otherwise qualified for the WHA program and this cannot be mitigated by a reasonable accommodation.
- 5. Reasonable accommodations or modifications will be made up to the point of undue financial or administrative burden, or requiring changes fundamental to the program in accordance with the provisions of this policy. Reasonable modifications will be made up to the point of structural infeasibility, or undue financial or administrative burden.

**C. Reasonable Accommodation/Modification Evaluation Criteria**

The WHA will evaluate requests for accommodation or modification by determining if the requests satisfy all of the following four criteria.

1. Request

- a. The WHA must receive a request for the accommodation or modification, which sufficiently explains what the request is.
- b. The request does not have to come from the person with a disability in question. Any person may make the request on behalf of the person with a disability.
- c. The request does not have to be in any particular form nor do the words “reasonable accommodation or modification” need to be used.
- d. The request may be verbal, although the WHA prefers written requests. Staff members will assist people in completing the Reasonable Accommodation request form if assistance is required.
- e. The request may be presented at any point in time during intake, admissions, tenancy, or participation in any of WHA’s programs or services.

2. Disability

- a. The accommodation or modification must be for a person who has a condition that meets the definition of disability. Such persons include the head of household as well as any household members.
- b. When a disability, as defined in this policy, is obvious or known to staff, documentation of the disability may not be required.
- c. When the disability and/or need is not known or obvious to staff, requests will require verification that the individual meets the definition of disability, and when relevant, that the accommodation is likely to resolve the problem.
- d. If a disabled individual, who has committed a program violation, requests a reasonable accommodation in order to comply with WHA program requirements, the WHA must, in considering this request, determine whether non-compliance is likely to recur even with the accommodation sought.



- i. The WHA may request that the individual provide appropriate information or verification, within a reasonable time period, to establish that non-compliance is not likely to recur.
  - ii. If the requested accommodation is not likely to solve the program violation, and continuation of the program violation will pose a threat to the health or safety of others, unreasonably disrupt the quiet enjoyment of other tenants, or constitute a fundamental alteration in the program, the accommodation request may be denied.
- 3. Necessity For Reasons Substantially Related to the Disability
  - a. The requested accommodation or modification must be necessary for the person with a disability's full enjoyment of WHA programs, facilities or premises; and
  - b. The necessity must be substantially related and have a correlation to the requestor's disability.
  - c. The WHA may request information that is necessary to evaluate the disability-related need for the accommodation.
  - d. The WHA is not obliged to provide accommodations or modifications that may be necessary to the requestor, but are for reasons that do not substantially relate to the disability.
- 4. Reasonableness
 

The requested accommodation or modification must be reasonable. A request is not reasonable if any of the following are true:

  - a. Undue Financial or Administrative Burden on WHA
    - i. The request would, if approved, impose an undue financial or administrative burden on the WHA.
    - ii. The WHA will determine on a case-by-case basis whether a request would impose an undue financial or administrative burden.
    - iii. Relevant factors include:
      - 1. The administrative cost and burden of the requested accommodation in comparison with the administrative cost of regular operations;
      - 2. Limits or availability of WHA's overall resources;
      - 3. The benefits that the accommodation would provide the requester, and
      - 4. The availability of other, less expensive, alternative accommodations that would effectively meet the requester's disability-related needs.
  - b. Fundamental Alteration in the Nature of WHA's Program(s): The request would, if approved, fundamentally alter WHA's program(s). This means that the request, if granted, would require the WHA to provide a program or service that it does not normally provide, such as counseling services, medical services, or transportation services.

**D. Reasonable Accommodation/Modification Documentation**

- 1. When documentation is necessary, WHA recommends that applicants, residents and participants use the WHA verification form. The WHA may request the use of the WHA Request for Reasonable Accommodation/Modification Form and Reasonable Accommodation Verification Form if other forms of documentation do not adequately document the need for accommodation.
- 2. The person requesting the accommodation should secure documentation or to give the



WHA the information necessary to secure such documentation. Documentation must include independent verification from a doctor, licensed professional or other professional who has professional knowledge of the applicant/resident/participant sufficient to render an opinion to answer the applicable questions.

3. The WHA has the right to sufficient documentation to make a decision, but does not have a right to diagnosis, medical history or treatment unless directly relevant to a reasonable accommodation request. For example, in response to a request for accommodating chemical sensitivity, the WHA could request a list of the specific materials that an individual is sensitive to.

**E. Live-in Aide (also known as a Personal Care Attendant or PCA)**

1. Live-in Aide Definition:

- a. A Live-in Aide is a person who resides with one or more elderly persons, near-elderly, and/or person with a disability. The Live-in Aide:
  - i. Must be essential to the care and well-being of the person(s);
  - ii. Must not be obligated for the support of the person(s); and
  - iii. Would not be living with the person(s) except to provide the necessary supportive services.
  - iv. For state-aided programs, the Live-in Aide must be paid for their services.
- b. A Live-in Aide is not:
  - i. Entitled to Residual Tenancy after the elderly, near-elderly, and/or person(s) with a disability no longer reside in the unit; and
  - ii. An occasional, intermittent, multiple, or revolving caregiver.

2. Live-in Aide Approval Process:

The first step in the Live-In Aide approval process is approval by the WHA that that the elderly, near-elderly, and/or person(s) with a disability requires a Live-in Aide. The procedures outlined in sections F and G of this policy (below) shall apply to this first step. In addition to the procedures outlined in sections F and G of this policy, a Live-in Aide Verification form must be completed by a doctor, licensed professional or other professional who is knowledgeable about the person's disability and is competent to render the decision.

If the WHA acknowledges that a Live-in Aide is required, then the particular Live-in Aide must receive approval from the WHA prior to occupancy. A family may identify a relative as the potential Live-in Aide. Once the family identifies the potential Live-in Aide, the family must inform the WHA that this person has been identified and that they are requesting that this person be added to the household. For Leased Housing programs, the family must also obtain written approval from the landlord that the particular person can be added to the household. The WHA will then meet with the particular person identified as the potential Live-in Aide, and, if possible, the family member for whom a Live-in Aide has been approved for an initial screening interview.

If the WHA determines that the potential Live-in Aide meets the above definition of a Live-in Aide, then the family must complete a Live-In Aide Application. The potential Live-in Aide will then be screened by the WHA Admissions Department.

At any time, the WHA may refuse or withdraw approval for a particular Live-in Aide, if:



- a. The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- b. The person commits drug-related criminal activity or violent criminal activity; or
- c. The person currently owes rent or other amounts to the WHA or another PHA in connection with Section 8 or public housing assistance.

Once a particular Live-in Aide is approved, a written notification will be sent to the Head-of-Household. Prior to occupancy by the Live-in Aide, a Live-in Aide Acknowledgement must be signed by the approved Live-in Aide, Head-of-Household, landlord, and a representative of the WHA.

The Live-in Aide may have additional WHA-approved family member(s) live with them in the assisted unit. However, no additional bedrooms will be provided for the family member(s) of the Live-in Aide. The additional family member(s) of the Live-in Aide shall not violate Occupancy Standards, Housing Quality Standards, or the State Sanitary Code.

3. A Live-in Aide's income will be excluded when calculating the household's income and determining the rental rate or the total tenant payment and subsidy amount. If the household is directly paying the Live-in Aide and receives funds specifically to cover the cost of these services, then this income will also be excluded. The income and assets of the Live-in Aide must be reported and verified. This section also applies to additional family member(s) of the Live-in Aide.

#### **F. Procedure**

1. Applicants, residents or participants may make Reasonable Accommodation requests at any time and may make them verbally, although for reasons of clarity for both parties, WHA preference is that requests be in writing.
  - a. Reasonable Accommodation Request and Verification Forms (one page, double sided) may be obtained from management offices, Leased Housing or Admissions Departments.
  - b. Staff will assist applicants, residents and participants who need such assistance and will accept requests in alternate format, if necessary because of a disability.
  - c. Requests for reasonable accommodation and modification may be submitted to any WHA staff person but will promptly be passed on to the appropriate person.
2. Once a request for a reasonable accommodation is received, the appropriate staff member will review the request and ensure that all required documentation is in order. Reasonable accommodation requests and supporting documentation will be forwarded to the Reasonable Accommodation Committee (RAC) for review, disposition and record retention. The RAC will meet as often as needed and the decisions relative to cases brought before the committee will be reviewed and determination made.
3. The WHA may request additional documentation from the person requesting the reasonable accommodation that substantiates the disability; documentation that the reasonable accommodation is needed as a direct result of the disability; and/or that the accommodation will enable the person to have equal opportunity relative to housing. The WHA may also seek expert advice from medical or other professionals as to the needs of the person in question and alternative methods of accommodating those needs.



4. In some cases, a meeting with the person requesting the accommodation, and any service providers or other technical assistance sources, may be the best way to identify the best solution.
5. RAC shall approve or deny a reasonable accommodation request in writing as soon as possible. A notice of denial shall provide the requestor with the right to further review.

**G. Further Review**

1. An individual who received a denial of a request for reasonable accommodation or modification has the right to in-person, further review with the WHA.
2. The time period to request an in-person, further review with the WHA shall be ten (10) business days from receipt of the notice of WHA's action.
3. Requests are to be made to the WHA in writing or an alternate format.
4. The WHA shall schedule an in-person, further review to engage in an interactive process and to make a factual determination relating to the individual circumstances.
5. The WHA is not bound by decisions that are contrary to HUD regulations or requirements or contrary to Federal, State or local law.
6. If the Executive Director or his or her designee determines that the WHA is not bound by the decision made after the in-person, further review, the WHA must promptly notify the requestor of the determination and the reason for such a decision. Any such decision by the Executive Director or his/her designee shall be made in writing and shall explain its basis.
7. The WHA will take action against a requestor with a pending reasonable accommodation if the requestor presents a threat to the health and safety of other residents or tenants.

