

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

This is basic information and does not constitute legal advice.

A Guide to the Fair Housing Act

What is the Fair Housing Act?

The Fair Housing Act (FHA) is a law that protects a person with a disability from being discriminated against when obtaining housing. 42 U.S.C. §§ 3601 – 3619 (2003).

Who qualifies as a person with a disability under the FHA?

The FHA defines a person with a disability to include, but not limited to

1. Individuals with a physical or mental impairment that substantially limits one or more major life activities. The term "physical or mental impairment" includes:
 - Mobility impairments
 - Visual impairments
 - Hearing impairments
 - Mental illness
 - HIV/AIDS
 - Mental retardation
2. Individuals who are regarded by others as having such an impairment; and
3. Individuals with a record of an impairment.

What is a housing provider?

A housing provider is someone from whom you rent a house or apartment. For example, your landlord or the person to whom you pay the rent is a housing provider.

What is a reasonable accommodation?

A reasonable accommodation is a request you can make to your housing provider to change a rule or policy for you so you can live with as much independence as possible. A reasonable accommodation can help you use and enjoy the house or apartment.

Example: If you have limited ability to walk and you ask for a parking space close to the entrance of your apartment building, this space must be reserved for you. A housing provider must provide you with an accessible parking space to accommodate you even if they usually do not provide reserved parking spaces.

The accommodation you ask for must be related to your disability. As in the above example, the accommodation of a closer or reserved parking space is related, or because of, your limited walking ability.

What is a reasonable modification?

A reasonable modification is when you make changes to a house or apartment that you are renting, which allow you to live with as much independence as possible. A reasonable modification can help you use and enjoy the house or apartment.

Examples: Some reasonable modifications include installing a ramp into a building, lowering the entry threshold of a unit, or installing grab bars in a bathroom.

Reasonable modifications are usually made at your expense. But, there are resources available for helping you fund such modifications. To find out more about available resources, you may wish to contact the Housing and Urban Development office in Omaha at:

Housing and Urban Development
10909 Mill Valley Road, Suite 100
Omaha, NE 68154
Phone: (402) 492-3100
Fax: (402) 492-3150
TTD: (402) 492-3183

Can the housing provider ask me about my disability?

No. When you are applying to rent a house or an apartment a housing provider cannot:

- ask if you, or any other person living with you, has a disability or
- ask you about the type or severity of the disability.

However, if you ask for a reasonable accommodation, a housing provider may need to know certain information to make sure the accommodation is related to your disability, such as:

- Information that is needed to show that you have a disability,
- Information that describes the needed reasonable accommodation, and
- Information that shows how the reasonable accommodation is related to your disability.

You can give this information to the housing provider or have someone else that knows about your disability give them the information, such as your doctor. You do not have to give the housing provider your medical records.

If the housing provider finds that you have a disability, they can only ask you for information that is necessary to determine if the reasonable accommodation is related to your

disability. All of this information is confidential and the housing provider must not share it with anyone else.

Can a reasonable accommodation be denied?

Maybe. The FHA may require a housing provider to provide and pay for a reasonable accommodation. But an accommodation can be denied if providing the accommodation is not reasonable. This means that the accommodation may be too costly or it would be too difficult for the housing provider.

Example: It may be too costly & extremely difficult to require a housing provider to install an elevator in a building built in 1930 to accommodate a person with a disability to live on the third floor of the building.

The cost of the accommodation and whether there are cheaper alternative accommodations must be considered to determine if the accommodation is reasonable. This is determined on a case-by-case basis.

A housing provider does not have to provide a reasonable accommodation if you have not asked for one.

How do I ask for a reasonable accommodation or modification?

There is not a certain way that you have to ask for a reasonable accommodation. But it is probably best if you ask for it in writing. Be sure to date your request and make a copy of it for your records. That way you have proof that you did ask for a reasonable accommodation.

May a housing provider charge an extra fee or require an additional deposit from applicants or residents with disabilities before providing a reasonable accommodation?

No. Housing providers may not require persons with disabilities to pay extra fees or deposits in order to receive a reasonable accommodation.

Section 504 of the Rehabilitation Act of 1973 is another law that prohibits discrimination in housing.

Section 504 does not allow the U.S. Department of Housing and Urban Development (HUD) and other federal programs to discriminate against people with disabilities.

If a housing provider receives federal assistance they may be required to pay costs to provide legally required reasonable accommodations as long as the accommodation is reasonable and not too costly or difficult for the housing provider to provide.

Does the Americans With Disabilities Act (ADA) apply to housing?

In most cases, the ADA does not apply to residential housing. Title III of the ADA prohibits discrimination against persons with disabilities in commercial facilities and public accommodations. However, Title III of the ADA covers public and common use areas at housing developments when these public areas are open to the general public or when they are made available to the general public.

How do I know if my rights have been violated?

A housing provider may have violated your rights if they:

- Refuse to make **reasonable accommodations** for a person with a disability.
- Refuse to allow you to make a **reasonable modification**.
- Take too long in letting you know whether they can provide the reasonable accommodation or not. This might be the same as if they refused to provide you a reasonable accommodation.

What can I do if my rights have been violated?

You can file a complaint with HUD. The complaint must be filed within one year of the alleged denial. HUD will investigate the complaint at no cost to the person with a disability.

You may file a complaint by:

- Placing a toll-free call to 1-800-669-9777 or TTY 1-800-927-9275;
- Completing the “on-line” complaint form available on the HUD internet site:
<http://www.hud.gov>;
- Mailing a completed complaint form or letter to:

Office of Fair Housing and Equal Opportunity
Department of Housing & Urban Development
451 Seventh Street, S.W., Room 5204
Washington, DC 20410-2000

You can file a complaint with the U.S. Department of Justice, Civil Rights Division. The Civil Rights Division of the Justice Department brings lawsuits in federal courts across the country to end discriminatory practices and to seek monetary and other relief for individuals whose rights under the Fair Housing Act have been violated. To file a complaint write to:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Housing and Civil Enforcement Section, NWB
Washington, D.C. 20530

For more information on the types of housing discrimination cases handled by the Civil Rights Division, please refer to the Housing and Civil Enforcement Section's website at <http://www.usdoj.gov/crt/housing>.

You can file a private lawsuit in federal district court within two years of the alleged denial.

Additional Resources

- The Access Board.
<http://www.access-board.gov/indexes/aboutindex.htm>
- HUD. “Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines” at
<http://www.hud.gov/offices/fheo/disabilities/fhefhasp.cfm>.

Joint Statement of the Department of Housing and Urban Development and the Department of Justice. Reasonable Accommodations under the Fair Housing Act. Washington, D.C. May 17, 2004.