



# Fair Housing Rights for People Living with Disabilities

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## Section One: Using this Guide

This guide can help people living with disabilities understand their fair housing rights. A person living with a disability can ask a landlord to make reasonable changes to the structure of their unit or to rental procedures. This first section reviews the Fair Housing Act's definition of disability. The main part of this guide discusses rights for people living with disabilities related to:

- Assistance animals
- Applying to housing
- Living in housing
- Moving out of housing (including termination and eviction notices)

We also review:

- A landlord's responsibilities under the Fair Housing Act related to applicants and tenants living with disabilities

The Fair Housing Act creates protections against discrimination based on disability and other protected classes. In the last section of this guide there is more information about other types of housing discrimination.

**NOTE:** This guide does not focus on Landlord Tenant Law. Landlord Tenant Law outlines how a landlord should screen tenants, laws around the lease agreement, a landlord's responsibility to make repairs, a tenant's responsibility to follow the lease agreement, move out procedures, and more. Please see **OregonLawHelp.org** for civil legal aid. There you can find information on Oregon's Landlord Tenant Law and Legal Aid office locations.

## Section Two: Fair Housing Law

Fair housing law is a type of Civil Rights law applied to housing. Fair Housing law improves access to housing for protected classes. Protected classes are groups that share common traits. Protected classes have historically been discriminated against. On the federal level, the protected classes are race, color, national origin, religion, sex, families with children, and disability. Oregon adds the protected classes of marital status, sexual orientation, gender identity, and source of income. Domestic violence, and federal Fair Housing Law. Some counties, cities, and towns add more.

The focus of this guide is fair housing and disability. Fair housing law affords someone living with a disability equal opportunity to use and enjoy their home.

## Section Three: Fair Housing and Disability

Fair Housing law defines disability as any physical or mental condition that substantially impairs a major life activity like:

- Walking
- Seeing
- Hearing
- Breathing
- Thinking
- Caring for oneself

Disability includes ongoing chronic medical conditions. Examples are multiple sclerosis (MS), cerebral palsy, schizophrenia, autism, seizure disorder, asthma, post-traumatic stress disorder (PTSD), attention deficit disorder (ADD), depression, anxiety, etc. Disability also includes alcoholism and drug addiction. Current illegal use of controlled substances does not qualify as a disability.

A landlord is not allowed to treat a tenant or applicant living with a disability differently because of the disability. For example, a landlord cannot refuse to rent to an applicant because the applicant lives with a disability.

Sometimes a tenant needs a physical change to a unit because of their disability. This is called a reasonable modification. Sometimes a tenant or applicant needs to have a policy or procedure applied differently because of their disability. This is called reasonable accommodation.

An applicant or tenant can ask a landlord for reasonable accommodation or modification when applying for, living in, or moving out of a rental unit. There is no limit to the number of reasonable accommodations or modifications a person living with a disability can ask for. Each request is reviewed on a case-by-case basis. We review how a landlord evaluates reasonable accommodations and modifications in Section Eight.

### **Reasonable modification**

When a tenant needs a physical change to a unit because of their disability, this is called a **reasonable modification**. Examples are:

- A grab bar in a shower
- A ramp installed so a tenant can get in the front door
- An adapted kitchen
- A roll-in shower

If the property receives federal funds, like tax credit housing or public housing, then in most cases the landlord needs to pay for the modification. In other types of housing, the tenant is responsible to pay for these modifications. Sometimes a landlord can require a tenant to pay for changing a unit back after they move out. For example if a tenant uses a wheelchair and paid to remove bathroom cabinets so they can use the bathroom sink, the landlord can require them to pay for changing the bathroom back when they move out. A landlord cannot require a tenant to pay for changing the exterior of a unit or a common area back after they move out.

### **Reasonable accommodation**

When a tenant or applicant needs to have a policy, rule, or procedure applied differently because of their disability, this is called a **reasonable accommodation**. In the next four sections we review reasonable accommodations someone can request at application, while living in a unit, and while moving out. You will find examples of reasonable accommodations in each of those sections.

### **Verification**

A person living with a disability may need to provide verification of their disability if they ask for a reasonable accommodation or modification. If a person's disability is obvious, they do not need to provide verification (example: someone who uses a wheelchair for their disability does not need to provide verification that they need a ramp). Verification is documentation from a verifier who is a reliable third party. The verification confirms a person has a disability as defined by the Fair Housing Act. The verification needs to show why the applicant or tenant needs the accommodation or modification for full use and enjoyment of the rental. In each section we review which types of documents a person may want to give a landlord for verification. We also review options of whom to use as verifiers.

## **Section Four: Assistance Animals**

Assistance animals can be extremely helpful to people living with disabilities. An assistance animal can be an emotional support animal, a therapy animal, a companion animal, or a service animal. **An assistance animal is not a pet.** An assistance animal is a tool for someone living with a disability. The animal helps a person living with a

disability to use and enjoy their home. This section reviews:

- Examples of assistance animal discrimination in housing
- Fair housing rights for people who need assistance animals

### **Examples of illegal housing discrimination for people with assistance animals**

A landlord can decide if they allow pets to live in their rentals. They can decide what pet breeds and sizes are allowed. If someone has an assistance animal they can ask for an exception to pet policies. This is called a reasonable accommodation. It is based on disability. To understand what assistance animal discrimination looks like, here are some examples:

**Example:** A landlord refuses to rent to an applicant who has a Rottweiler as an assistance animal. The landlord says that the animal is larger than 20 pounds and is a bully breed.

**Why this is illegal:** A landlord is not allowed to turn an applicant down because of the breed or size of their assistance animal. If the animal has a history of violence or damaging a unit, a landlord can deny this reasonable accommodation. If the animal is currently violent or destructive, the landlord can turn down the reasonable accommodation. Otherwise the landlord is required to follow fair housing law and allow the tenant to have their assistance animal.

**Example:** A landlord tells a tenant living with a disability they can have their assistance animal but only as long as they pay pet rent and pay a pet deposit.

**Why this is illegal:** An assistance animal is not a pet. Pet rent and pet deposits do not apply to assistance animals.

**Example:** A tenant's disability is getting worse. They can no longer hear when the doorbell rings or when alarms go off. The tenant requests an assistance animal as a reasonable accommodation. The animal is trained to signal the tenant when someone is at the door or an alarm sounds. The landlord says no pets are allowed. The landlord denies the reasonable accommodation.

**Why this is illegal:** If a tenant is deaf or hard of hearing an assistance animal can help them with equal access to their housing. In this example, the assistance animal will also help with basic safety. The landlord needs to approve this reasonable accommodation unless the animal shows behavior that is dangerous or damages the property.

If you believe that you have experienced illegal housing discrimination, you can contact the Fair Housing Council of Oregon at (800) 424-3247, ext. 2 or [information@fhco.org](mailto:information@fhco.org).

## **Reasonable accommodation and assistance animals**

When a tenant or applicant needs to have a policy, rule, or procedure applied differently because of their disability, this is called **reasonable accommodation**. Asking a landlord to allow a person living with a disability to have their assistance animal is a reasonable accommodation. The assistance animal needs to help a person living with a disability with equal access and enjoyment of their unit. Here are some examples of how assistance animals can help:

- A tenant lives with anxiety. A symptom of the anxiety is it causes them to isolate. When they isolate they have problems with paying bills and self-care. Their assistance animal gives emotional support. The tenant finds they do not isolate as often because they have to take their dog on a walk several times a day. This interrupts their pattern and they are able to maintain basic functioning like paying bills and self-care.
- A tenant has a seizure disorder. Their assistance animal notifies them when they are going to have a seizure. The person then understands they need to call for help and get into a safe position so they do not harm themselves when they are going to have a seizure.
- An applicant is blind and needs a seeing eye dog.
- A tenant has balance problems related to their disability. The assistance animal helps them with balance so they do not fall in their home.

A person living with a disability or multiple disabilities can ask for more than one reasonable accommodation. This means, there might be more than one assistance animal in a household. For example, in one household a mother may have PTSD and have an assistance animal. Her child living with autism may have his own assistance animal. One person may have multiple assistance animals. Each animal needs to perform different functions related to the disability or disabilities. Each assistance animal needs to alleviate a different symptom of the disability or disabilities that the other animal does not.

A tenant living with a disability is responsible to make sure their assistance animal follows the rental agreement and the agreements in the reasonable accommodation.

Some general information to know is:

- If a landlord doesn't allow animals in their rental, a person with an assistance animal is required by law to request a reasonable accommodation for their assistance animal.
- When it is obvious that someone needs an assistance animal, the applicant or tenant does not need to request a reasonable accommodation (ex. Guide dog for someone who is blind).

- A reasonable accommodation for an assistance animal must make the connection between the disability and why the assistance animal is needed to alleviate a symptom or symptoms of a person's disability.
- Weight and breed restrictions normally used for pets, do not apply. An assistance animal is not a pet.
- If an assistance animal acts violently or causes damage, a landlord can ask that a tenant remove the animal from the home.
- When the landlord checks an applicant's rental history, if they find out the animal has a history of damage or violence, the landlord can deny the specific animal. The applicant is allowed to identify a different assistance animal that can perform the same function.
- If an assistance animal damages a unit, the tenant is responsible for the damage.
- A landlord can have an assistance animal agreement. The agreement outlines how someone needs to take care of their animal. The agreement is not allowed to be more restrictive than a pet agreement.
- A landlord is allowed to require assistance animals to be licensed and up to date on vaccinations.
- A landlord is not allowed to charge fees or deposits for assistance animals.
- Even if a landlord allows all animals (pets and assistance animals), a person with a disability may request a reasonable accommodation to waive any pet rent, pet deposit, or other fee directly associated with keeping the animal on the premises as an assistance animal. Those types of fees cannot be assessed for assistance animals if the landlord has knowledge that it is an assistance animal through the reasonable accommodation process.
- In general the animal should be a regular type of household animal like a dog or cat. If the animal is different, there needs to be a clear reason why someone needs that specific animal.

To understand how a landlord approves or denies reasonable accommodation requests, please turn to Section Eight of this guidebook.

### **When to request a reasonable accommodation for an assistance animal**

An applicant or tenant living with a disability can ask for a reasonable accommodation at any time. This means an applicant living with a disability can request an accommodation for their assistance animal when applying to rent. They can ask for the accommodation after being approved to rent. They can ask for the accommodation while living in housing. They can request the accommodation within a reasonable amount of time after getting the animal.

### **Verification of disability**

Verification needs to:

- Be from a reliable third party; this is someone working with the applicant that has knowledge of the applicant's disability (examples: doctor, nurse, counselor, social worker, etc)
- Verify the disability meets the definition outlined in the Fair Housing Act (this is outlined in the introduction section of this guide)



- Show how the reasonable accommodation request is necessary and related to the disability

Verification needs to be in writing. It can be delivered to the landlord via email, mail, or fax by the applicant or verifier.

**Template for requesting reasonable accommodation for an assistance animal**

To whom it may concern:

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable accommodation to have my assistance animal live with me. This request is necessary for me as a person with a disability to have equal access/have reasonable enjoyment of my housing.

With this request, I have included (*list documentation that verifies disability and its connection to the RA request*).

Please respond to this request by (*date*).

Thank you for your time and consideration,

(Insert your name and then sign)

**Sample reasonable accommodation request for an assistance animal**

Dear Larry Landlord,

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable accommodation to have my assistance animal live with me. This request is necessary for me as a person with a disability to have reasonable enjoyment of my housing.

With this request, I have included a letter from my counselor. The letter verifies that I meet the definition of disability in the Fair Housing Act and that my assistance animal is needed so I have reasonable enjoyment of my housing.

Please respond to this request within one week.

Thank you for your time and consideration,

Terry the Tenant

## Section Five: Application

When applying for housing, sometimes a landlord will treat a person differently because of their disability. Sometimes a landlord assumes a person has a disability. It is illegal for a landlord to assume what a person living with a disability can or cannot do, what they will or will not do, or what they need or don't need. It is illegal for a landlord to treat someone differently because they assume someone has a disability. This section reviews:

- What housing discrimination based on disability might look like at application
- Fair housing rights for people living with disabilities when applying for housing

Some helpful information to know is:

- An applicant or tenant can ask for a reasonable accommodation or reasonable modification at any point, including while they are applying to rent.
- There is no limit to the number of reasonable accommodations or modifications a person with a disability can ask for.
- Each request is reviewed on a case-by-case basis.
- If a landlord is unable to approve a reasonable accommodation or modification, they are required to work with an applicant in good faith to find a reasonable alternative.

To understand how a landlord approves or denies reasonable accommodation requests, please turn to Section Eight of this guidebook.

### **Examples of disability-based discrimination when applying to housing**

If a landlord charges an application fee, they need to have neutral screening criteria to determine an applicant's eligibility. The landlord screens applicants for rental, eviction, credit, and criminal history. For criminal history, a landlord needs to be specific about which types and date ranges of convictions they will and won't work with.

Sometimes a person's disability caused problems in the past. Sometimes these past problems make it harder to qualify to rent. These problems are called rental barriers. To understand what housing discrimination based on disability might look like when someone is applying for housing, here are some examples:

**Example:** A landlord says they cannot rent to an applicant because of the applicant's disability or because the landlord assumes the applicant has a disability.

**Why this is illegal:** A landlord cannot discriminate against someone because the applicant is living with a disability. The applicant still needs to qualify to rent based on screening criteria. If the landlord does not rent to someone because the landlord assumes the person has a disability, this is also illegal.

**Example:** A person with a wheelchair calls a landlord and asks about move-in costs. The landlord quotes a specific amount for the security deposit. When the applicant arrives, the landlord sees the person is in a wheelchair. Then the landlord tells the person that the security deposit is double.

**Why this is illegal:** A landlord is not allowed to charge a higher security deposit to someone because they use a wheelchair.

**Example:** An applicant with a mobility disability is told that they may want to check back on rental availabilities at a later date because there is nothing available on the ground floor.

**Why this is illegal:** This is called steering, when a landlord is trying to steer someone away from one unit and towards a different unit. The landlord is not allowed to assume what an applicant can or cannot do because of their disability.

**Example:** An applicant is told that they do not qualify to rent a unit because their live-in caregiver does not qualify based on credit history.

**Why this is illegal:** A live-in caregiver is sometimes a medical necessity for people living with a disability. The caregiver is not a tenant and should not be screened like a tenant. The landlord is allowed to do a modified screening of the caregiver. The landlord is allowed to determine if the caregiver poses a risk to the safety of residents, the staff, or the property. The landlord does this by looking at records of past behavior of the caregiver. The landlord is allowed to look at the caregiver's criminal history and some parts of their rental history. However, the caregiver will not pay rent. The landlord cannot review a caregiver's credit, income, or past rent payment history. The caregiver is not added to the lease agreement as a tenant. They are also not a guest. The landlord cannot charge additional deposits or fees for the caregiver. For more information on caregivers, please see Section Six.

**Example:** An applicant will need a ramp and requests this at the time of application. The landlord denies the application saying they do not have the money to install a ramp.

**Why this is illegal:** A landlord cannot refuse to rent to someone because the applicant is living with a disability. The applicant needs to qualify to rent based on screening criteria. If the landlord receives federal funds, they are required to pay for the reasonable modification. If the landlord does not receive federal funds, the applicant will need to pay for the modification. For more information on reasonable modifications, please see Section Six.

If you believe that you have experienced illegal housing discrimination, you can contact the Fair Housing Council of Oregon at (800) 424-3247, ext. 2 or [information@fhco.org](mailto:information@fhco.org).

### **Reasonable accommodation when applying to rent**

If someone asks for a reasonable accommodation to the screening criteria when they apply to rent it usually means there is a rental barrier caused by their disability. To the landlord the barrier may suggest an applicant might not be a good tenant. It is important for a tenant to show a landlord they can be a good tenant. When a rental barrier is related to disability, it is best to ask for a reasonable accommodation. Make the request in writing. Ask for a response in writing within a specific time frame. Keep a copy. The applicant will need to:

- State what part of the screening criteria they don't qualify for.
- Describe that the barrier is related to the disability.
- Provide verification that the barrier was caused by the disability.
- Demonstrate what has shifted or changed so the barrier is no longer an issue.
- Show that the barrier or past behavior is not a risk to the property, safety of other tenants, or the landlord's business.

Here are some examples of reasonable accommodation requests a person might make related to screening criteria:

**Example:** An applicant has an eviction on their rental record and poor rental history related to their unmanaged drug addiction. The applicant has since been through treatment and is now in recovery.

**What the applicant can do:** The applicant can ask for a reasonable accommodation. It is best to do this in writing. They can ask the landlord to overlook their poor rental history and eviction because it was related to their disability. In this case, the applicant's disability was their unmanaged addiction. The applicant also needs to provide verification that they are in recovery. This may be a graduation certificate from a drug treatment program, a letter from a drug and alcohol counselor, and/or a letter from a sponsor. Depending on how recent the eviction is or how poor the rental history is, the applicant may want to consider including more letters of support. These letters need to show things have shifted in the applicant's life and they can follow a rental agreement. If the applicant is still using illegal drugs or still doing what caused the rental barrier in the first place, their request for accommodation may not be reasonable. The applicant should not bring up any issues that the landlord would not find otherwise in the screening.

**Example:** An applicant has poor credit history. Their disability got worse and they had to quit work. The applicant has large amounts of medical debt in collections related to worsening health. They also have other collection accounts from this time of their life. Since then, the applicant was approved for Social Security disability benefits and a housing choice voucher.

**What the applicant can do:** The applicant can ask for a reasonable accommodation that the landlord overlook their poor credit history that is related to their disability. This is best done in writing. The applicant needs to provide verification that the debt is related to their disability. This may be a letter from a doctor or a case worker that worked with the person at the time their condition worsened. The applicant will want to provide verification of how they will meet the requirements of the lease agreement. This will be a copy of their proof of income and housing choice voucher paperwork. The applicant also must show that they stay on top of their regular bills. If the applicant is still being reported to collections for new debts and not paying bills like rent and utilities, then their request is likely not reasonable.

**Example:** An applicant does not qualify for a rental unit because they have an assault conviction on their record that is three years old. At the time of the assault charge, the applicant was living with an undiagnosed mental health condition. This condition caused them to occasionally become violent and they had an episode. Since this time, the applicant was diagnosed and is in care. They have no other criminal history before or after this time. Other than this, they qualify to rent.

**What the applicant can do:** The applicant can ask for a reasonable accommodation that the landlord overlook the criminal history related to disability. This is best done in writing. The applicant needs to provide verification that the behavior was related to the disability and it is no longer an issue. This means they need to show things have stabilized. The verification may be a letter from a psychiatrist or social worker. The applicant may also want to point out that there is no other criminal history on their record before or since the incident. The applicant may also want to provide other character reference letters showing that they will be able to follow a rental agreement.

Tips when asking for a reasonable accommodation related to the rental application:

- An applicant will want to ask for a reasonable accommodation in writing and keep a copy.
- An applicant will want to show that since the barrier occurred, things have stabilized and they are able to follow a rental agreement.
- An applicant needs to provide verification for how the rental barrier is related to their disability.
- If a barrier is more serious, the applicant may also want to provide extra documents to show they will be a stable tenant (example: letters of support, copies of graduation certificates from groups or classes, proof of debt repayment, etc.).
- If the applicant is still engaging in behavior that creates barriers to renting or the screening criteria (even if the behavior is related to their disability), it may be difficult to show that overlooking the barrier is reasonable.

### **When to ask for a reasonable accommodation**

Some applicants choose to ask for a reasonable accommodation when they give the landlord their application. Some applicants choose to ask for a reasonable accommodation after their application is denied. A landlord does not have to keep a rental unit open if someone is using a reasonable accommodation as an appeal for denial of housing. This is why some people choose to ask for the reasonable accommodation when they turn in their rental application.

### **Verification of disability**

Verification needs to:

- Be from a reliable third party; this is someone working with the applicant who has knowledge of the applicant's disability (examples: doctor, nurse, counselor, social worker, etc.).
- Verify the disability meets the definition outlined in the Fair Housing Act (this is outlined on page 3).
- Show how the reasonable accommodation request is necessary and related to the disability.

Verification needs to be in writing and can be delivered to the landlord via email, mail, fax, by the applicant or verifier.

### **Template for requesting reasonable accommodation when applying to rent**

To whom it may concern:

When you run my rental application you will see (*identify barrier/s*).

This barrier is directly related to my disability. Since this time (*identify what has shifted or changed – must be able to make a case that the disability will no longer result in noncompliance with lease*).

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I would like to ask for a reasonable accommodation to have (*identify barrier/s*) overlooked. This request is necessary for me to qualify for housing.

With this request, I have included (*list documentation that verifies disability and its connection to the reasonable accommodation request*).

Sincerely,

(Insert your name and then sign)

**Sample reasonable accommodation related to rental history, eviction history, and addiction**

To whom it may concern:

When you run my rental application you will see that I have an eviction from one year ago and negative rental history. I was asked to move out because of several lease violations.

These barriers are directly related to my disability. Since this time I have completed a drug and alcohol treatment program and have maintained my sobriety.

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I would like to ask for a reasonable accommodation to have my eviction and my negative rental history overlooked. This request is necessary for me to qualify for housing.

With this request, I have included my graduation certificate from my inpatient treatment program, a letter from my Drug and Alcohol Counselor, and a letter from my employer that talks about how I get along with other coworkers and am able to follow rules and guidelines.

Thank you for your time and consideration of my request,

Alex the Applicant

**Sample reasonable accommodation related to credit history**

To whom it may concern:

When you run my rental application you will see that I have several large collection accounts which include credit card and medical collections.

This barrier is directly related to when my disability worsened and I was unable to work as a result. Since this time I have been approved for my Social Security Disability Income benefit and have received a Section 8 voucher. Since receiving income I have created a monthly budget and stayed within that budget without accruing additional debt. I do not owe any past landlord any back-rent.

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I would like to ask for a reasonable accommodation to have my credit history overlooked.

With this request, I have included a letter from my medical provider verifying when my disability worsened and I was no longer able to work, a copy of my SSDI benefits, a copy of my Section 8 paperwork, copies of my monthly budget, and a letter from my brother in law who I rent a room from. He can verify I pay my portion of rent and utilities on time and in full since being approved for SSDI.

Sincerely,

Alex the Applicant



### **Sample reasonable accommodation related to criminal history**

To whom it may concern:

When you run my rental application you will see I have an assault charge from three years ago.

This behavior was directly related to a disability. At this time I was living with an undiagnosed disability that caused me to assault someone. Since this time I was diagnosed and I am in treatment for my condition. It is no longer an issue. I successfully manage this condition.

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I would like to ask for a reasonable accommodation to have my assault charge overlooked. This request is necessary for me to qualify for housing.

With this request, I have included a letter from my provider verifying I was diagnosed with my disability shortly after the episode occurred. This letter also verifies I am in regular treatment. When you pull my criminal history you will see I have no other criminal history charges before or since this event. I have included paperwork from the courts that shows I complied with all terms of my sentencing. I have included a letter of support from my case worker that talks about the qualities they have seen in me that would make me a good renter for you.

Thank you for your time and consideration,

Alex the Applicant

### **Section Six: During Tenancy**

Sometimes to live in a rental unit with equal access and equal enjoyment of the unit, a person living with a disability needs something done differently for them. This section reviews:

- What discrimination may look like for someone with a disability while living in a rental
- How to request reasonable modifications (making physical changes to a unit) due to disability
- How to request a reasonable accommodation (asking for a change to policy, rules, or procedures) due to disability

Some helpful information to know:

- A tenant can ask for a reasonable accommodation or reasonable modification at any point, including after approval or while living in a unit.
- There is no limit to the number of reasonable accommodations or modifications a person with a disability can request.
- Each request is reviewed on a case-by-case basis.
- If a landlord is unable to approve a reasonable accommodation or modification, they should work with the tenant in good faith to find a reasonable alternative.

To understand how a landlord approves or denies reasonable accommodation requests, please turn to Section Eight of this guidebook.

### **Examples of disability-based discrimination during tenancy**

Here are some examples of housing discrimination based on disability when someone is a tenant:

**Example:** A landlord is unwilling to allow a tenant to install a handrail they need to get up and down the stairs.

**Why this is illegal:** A landlord is required to allow a tenant with a disability to modify their unit if it creates equal access to use the unit. If the landlord receives federal funds, they are required to pay for the modification. If it is a private landlord, the tenant is required to pay for the modification. The landlord can require the modification be made up to code.

**Example:** A tenant with a memory condition asks the landlord for a phone call as a reminder to pay rent. The landlord is unwilling saying it is not their job.

**Why this is illegal:** A landlord may need to do things differently for a tenant living with a disability so that the tenant can maintain housing. If a landlord cannot grant this accommodation, then the landlord needs to work with the tenant to find a reasonable alternative. For example, if a landlord cannot make a monthly phone call to remind the tenant, the landlord may offer instead to set a monthly electronic reminder that is emailed to the tenant on the third.

**Example:** A landlord tries to charge a tenant higher rent because they have a live-in caregiver.

**Why this is illegal:** A live-in caregiver is not considered a tenant or guest. They are not added to a lease agreement. A live-in caregiver is used for someone living with a disability, like a wheelchair. A tenant is expected to make sure that the live-in caregiver is following the rules in the rental agreement. The landlord is allowed to run a modified screening on the live-in caregiver to make sure they are not a danger to the residents,

staff, or the property. A landlord is not allowed to do a formalized tenant screening on a live-in caregiver since they are not a tenant.

If you believe that you have experienced illegal housing discrimination, you can contact the Fair Housing Council of Oregon at (800) 424-3247, ext. 2 or [information@fhco.org](mailto:information@fhco.org).

### **Reasonable modification**

Requesting a reasonable modification means asking for a physical change to a rental unit. This modification creates equal access and/or reasonable enjoyment of the rental for the tenant living with a disability. Some examples of reasonable modifications are:

- A ramp installed for a person using a wheelchair
- Grab bars installed in a bathroom
- Adapted kitchens and bathrooms

To request a reasonable modification, a person needs to provide verification of disability. The verification of disability needs to show the connection between the disability and the request for physical change to the unit. If the disability and need for modification is obvious, the tenant will not need to provide verification. If the landlord receives federal funds, they need to pay for the modification. Otherwise, it is a tenant's responsibility to pay for the modification.

### **Reasonable accommodation**

Requesting a reasonable accommodation means asking for a change to a policy, rule, or procedure so a person with a disability has equal access and enjoyment of their home. Here are some examples of requests for reasonable accommodation when someone is a tenant:

- A tenant has a condition that affects their ability to walk. The tenant asks the landlord for an assigned parking spot that is close to their unit even though the landlord does not normally assign parking spots.
- Every month, a tenant receives their Social Security Disability Income benefits after the rent due date. The tenant can ask for an adjusted due date.
- A tenant needs a live-in caregiver due to a disability. The landlord has a right to do a modified screening on a caregiver to make sure the caregiver is not a danger to the residents, staff, or property. The caregiver is not added to the lease. They are not a tenant or guest. They do not pay rent. The tenant is responsible to make sure the caregiver follows the rules in the rental agreement.
- A tenant with a live-in caregiver asks for a parking spot for their caregiver. The caregiver takes the tenant to and from medical appointments and the tenant is unable to walk long distances due to their disability.

- A tenant finds that the noise from the nearby street makes their mental health condition worse. There is another building in the same complex that is set back from the street and much quieter. The tenant asks to move into a unit in the quieter building.

To ask for a reasonable accommodation, a tenant must also provide a landlord with verification that they have a disability as defined by the Fair Housing Act. They must show the accommodation is needed to have equal access and enjoyment of their home.

### **Verification of disability**

Verification needs to:

- Be from a reliable third party; this is someone working with the tenant who has knowledge of the tenant's disability (examples: doctor, nurse, counselor, social worker, etc.)
- Verify the disability meets the definition outlined in the Fair Housing Act (this is outlined on page 3)
- Show how the reasonable accommodation request is necessary, related to the disability, and restores equal access and enjoyment in housing.

Verification needs to be in writing and can be delivered to the landlord via email, mail, or fax by the tenant or verifier.

### **Template for requesting reasonable accommodation or modification during tenancy**

To whom it may concern:

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable accommodation/reasonable modification to (*identify the request*). This request is necessary for me as a person with a disability to have equal access/have reasonable enjoyment of my housing.

With this request, I have included (*list documentation that verifies disability and its connection to the RA/RM request*).

Please respond to this request by (*date*).

Thank you for your time and consideration,

(Insert your name and then sign)

**Sample reasonable modification request**

Dear Larry Landlord,

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable modification to install grab bars in my bathroom. This request is necessary for me as a person with a disability to be able to have equal access in housing.

With this request, I have included a letter from my doctor verifying my disability and need for adding grab bars to my bathroom.

Please respond to this request within one week.

Thank you for your time and consideration,

Terry the Tenant

**Sample reasonable accommodation request**

Dear Larry the Landlord,

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable accommodation to have a live-in caregiver. This request is necessary for me as a person with a disability to have equal access and enjoyment of my housing.

With this request, I have included a letter from my doctor that verifies my disability and my need for a live-in caregiver so that I can have equal access and reasonable enjoyment of my housing.

Please respond to this request within 10 business days.

Thank you for your time and consideration,

Terry the Tenant

## Section Seven: Move Out

Sometimes a tenant with a disability needs to move out of their home early. They may need to break their lease because of something related to their disability. Other times a landlord asks a tenant living with a disability to move out. The tenant might receive a termination or eviction notice. This section reviews:

- What disability-based housing discrimination might look like when someone is moving out or has been asked to move out
- When a person living with a disability needs more time to move out than what a termination notice allows
- When a person living with a disability has received a termination or eviction notice and the notice is related to behavior caused by the disability

Some helpful information to know:

- An applicant or tenant can ask for a reasonable accommodation or reasonable modification at any point. This includes when a tenant's tenancy is being terminated or they are being evicted.
- There is no limit to the number of reasonable accommodations or modifications a person with a disability can ask for.
- Each request is reviewed on a case-by-case basis.
- If a landlord is unable to approve a reasonable accommodation or modification, they should work with the tenant in good faith to find a reasonable alternative.
- Some people believe that a person living with a disability cannot ever be evicted. A person living with a disability can be evicted for breaking rules in the rental agreement. A person living with a disability needs to follow the rental agreement like all tenants.

To understand how a landlord approves or denies reasonable accommodation requests, please turn to Section Eight of this guidebook.

### **Examples of disability-based discrimination when moving or getting a termination notice**

Here are examples of housing discrimination based on disability when someone is moving out or being forced to move out:

**Example:** A tenant's disability is getting worse. They need to move into a care facility. The landlord will not allow the tenant to break the lease without a lease-break fee and bad rental reference.

**Why this is illegal:** Sometimes a disability gets worse over time. If a tenant needs to move into different housing because of their disability, a landlord needs to allow them to

break the lease. The tenant must ask for a reasonable accommodation. The landlord should not charge a fee or give a bad rental reference for breaking the lease early.

**Example:** A tenant reported their landlord for disability-related housing discrimination. After that the landlord gives the tenant a termination notice.

**Why this is illegal:** A tenant has the right to report a landlord if they are experiencing housing discrimination. If a tenant reports a landlord and then they receive a termination notice, or the landlord stops providing essential services, this could be retaliation. Retaliation is illegal.

**Example:** A tenant living with a disability violated the lease agreement. The violation was caused by disability-related behavior. The landlord issued a 30-day termination notice with 14 days to remedy. It will take the tenant more than 14 days to remedy the behavior. The tenant asks for a reasonable accommodation for more time to address the behavior. The landlord is unwilling to give them more than 14 days.

**Why this may be illegal:** There are only a few reasons a landlord can deny a reasonable accommodation. The request is not considered reasonable if the tenant is a danger to the property or other tenants. The reasonable accommodation needs to eliminate or significantly reduce threat caused by the behavior. If a tenant can show their behavior can stabilize, it is likely reasonable to ask for more time. The tenant still needs to pay rent during this time. The tenant needs a clear plan with timelines and steps they will take to address the behavior. The tenant will need to follow the plan.

If you believe that you have experienced illegal housing discrimination, you can contact the Fair Housing Council of Oregon at (800) 424-3247, ext. 2 or [information@fhco.org](mailto:information@fhco.org).

### **Termination of tenancy and tenant agrees to move**

If a landlord gives a tenant a termination notice to move, the notice will say how much time the tenant has to move out. Sometimes because of a disability a tenant may need more time to move out. The tenant may need more time to pack. It can be difficult to find a unit that is adapted or adaptable to their specific disability. The tenant can ask for a reasonable accommodation for more time to move. It is important to be specific about the amount of time needed to move. The tenant needs to provide verification that the request is related to the disability.

### **When disability-related behavior is the cause of potential lease termination**

Sometimes a person's disability causes behavior that violates the rental agreement. This may lead a landlord to issue a termination or eviction notice. These notices may outline how much time a tenant has to address the behavior. If the tenant plans to address the behavior, they can ask the landlord for more time than what the notice states. In the reasonable accommodation the tenant will want to:

- Say which part of the lease is being violated according to the termination or eviction notice
- Show the behavior is related to the tenant's disability
- Give the landlord verification that the behavior is related to the disability
- Outline a plan to address the issues
- Include a timeline stating when certain steps will be taken
- Provide letters from any agencies or people that will help stabilize the condition (case workers, counselors, doctors, social workers, etc.)

Some examples of what this might look like are:

**Example:** A tenant living with hoarding disorder receives a termination notice. The amount of things they have collected breaks the lease agreement because of safety risks and infestation problems. The landlord gives the tenant a 30-day termination notice with 14 days to remedy. It will take the tenant more than 14 days to clean their unit and learn to manage their condition.

**Remedy:** The tenant can request a reasonable accommodation for more time to address the behavior. The tenant needs to include verification showing the behavior that violates the lease is related to the disability. The tenant should create a clear plan outlining what steps will be taken to fix the situation. It is best to put this plan in writing and give it to the landlord. It should have a timeline included. The plan may include counseling or attending classes like "Buried in Treasures." This is a class that can help people learn to manage hoarding disorder. It is taught at many agencies nationwide. For more information about the class in Oregon visit <https://multco.us/ads/hoarding>. The tenant will need to include letters from agencies and supports that they mention in their plan. The letters should outline what type of help they can give.

**Example:** A person living with a mental health condition receives a termination notice. Their condition has worsened because they switched medications. Their new medications are not effective. The termination notice cites the tenant for threatening and harassing other tenants. This breaks rules in the rental agreement.

**Remedy:** The tenant needs to address the behavior that breaks the rules in the rental agreement. They can request a reasonable accommodation and ask for time to address their problem. In their request they will want to outline their plan with steps and timelines attached. The plan may include working with their medical or mental health provider to resolve the problem with their medication. The request may include a plan for the tenant to go to inpatient treatment. The tenant will want to include letters from agencies or supports they mention in the plan. A verification of the disability and its connection to the behavior needs to be included.



**Verification of disability**

Verification needs to:

- Be from a reliable third party; this is someone working with the tenant living with a disability who has knowledge of the disability (examples: doctor, nurse, counselor, social worker, etc.)
- Verify the disability meets the definition outlined in the Fair Housing Act (this is outlined on page 3)
- Show how the reasonable accommodation request is necessary and related to the disability

Verification needs to be in writing and can be delivered to the landlord via email, mail, or fax by the tenant or verifier.

**Template for requesting reasonable accommodation or reasonable modification at termination or eviction**

To whom it may concern:

I received a (what type of notice) on (date) related to (identify lease violations listed on the notice). These lease violations are directly related to my disability.

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable accommodation to (identify the request). This request is necessary for me as a person with a disability to maintain housing.

My plan to address the issues identified in the termination notice is (clearly outline plan to address issues – include timelines, steps, agencies/case workers/therapists/etc. which will be used to help remedy the issue/s)

With this request, I have included (list documentation that verifies disability, its connection to the reasonable accommodation and the connection to the plan to address issues).

Please respond to this request by (date).

Thank you for your time and consideration,

(Insert your name and then sign)

**Sample reasonable accommodation requesting more time to move**

Dear Larry Landlord:

I received a 30-day termination notice with 14 days to remedy on 2/1/19. I have realized I will not be able to remedy the situation and plan to move out; however, I will need more than 30 days to find housing that will work for me because of my disability.

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable accommodation to have 45 days to move. This request is necessary for me as a person with a disability to successfully move and find a new place to live.

With this request, I have included verification of my disability from my mental health provider. This verification outlines why I need an extra 15 days to successfully move out. As part of my request, I also ask that you do not move towards evicting me as I am willing to move by choice.

Please respond to this request by 2/8/19.

Thank you for your time and consideration,

Terry the Tenant

**Sample reasonable accommodation related to hoarding disorder**

Dear Larry Landlord:

I received a 30-day termination notice with 14 days to remedy on 12/6/18 related to having excessive amounts of things causing safety and infestation problems. These lease violations are directly related to my disability.

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable accommodation for more time to address my condition. This request is necessary for me as a person with a disability to maintain housing.

My plan to address the issues identified in the termination notice is: connect with mental health counseling on 12/13/18, attend classes called “Buried in Treasure” that will help me learn to manage my condition, and begin to clean out rooms of my apartment. Due to the severity of my condition it will take me longer than 14 days to remedy my problem. My disability services worker will help me connect to additional services. I also willingly allow you to do monthly inspections of my apartment so you can see the progress I am making.

With this request, I have included:

- A letter from my doctor that discusses my condition and its relation to the behavior causing me to break my lease agreement
- A letter from the mental health provider I will be seeing
- A letter to verify that I am enrolled in the “Buried in Treasure” classes
- A plan with timelines attached for which rooms and areas of my apartment I will clean out and by what dates

Please respond to this request by 12/13/18.

Thank you for your time and consideration,

Terry the Tenant

**Sample reasonable accommodation related to harassment**

To whom it may concern:

I received a 24 hour termination notice on 1/15/19 related to breaking my rental agreement rules because I was harassing other tenants. These lease violations are directly related to my disability.

As defined by the Fair Housing Act, I am a person living with a disability. In accordance with the Fair Housing Act, I am asking for a reasonable accommodation for time to address my mental health condition. This request is necessary for me as a person with a disability to maintain housing.

My plan to address the issues identified in the termination notice is to work closely with my doctor and mental health professional to find different medications for me that are more effective. I agree to stay out of common areas and keep to myself until the issues with my medications have resolved.

With this request, I have included a letter from my doctor who knows about my condition and can verify my behavior is related to my disability. I have included a letter from my psychiatrist verifying my behavior is related to my disability and that I recently switched medications, which has caused this problem. Between my doctor and my psychiatrist, we need time to work together as a team to find appropriate treatment.

Thank you for your time and consideration,

Terry the Tenant

## **Section Eight: A Landlord's Process to Approve or Deny a Reasonable Accommodation or Modification Request**

A landlord generally needs to approve a reasonable accommodation or modification request. They can deny the request if it is not “reasonable.” “Reasonable” has to do with the impact on the landlord. “Reasonable” is related to cost, burden, and extra work a request places on a landlord. Reasonable also has to do with safety.

“Reasonable” does not mean the landlord decides if a person’s disability meets the fair housing definition of disability. This is the verifier’s job. “Reasonable” does not mean the landlord can decide if a tenant or applicant needs an accommodation or modification to have equal access and enjoyment of their unit.

A landlord can turn down a reasonable accommodation or modification request if it:

- Is too costly
- Adds too much additional work for the landlord and interferes with the landlord’s ability to carry out regular business activities
- Is outside the scope of the landlord’s duties
- Causes a danger to residents, property, and/or staff

A landlord should:

- Only ask questions necessary to evaluate the disability-related need for the accommodation
- Expect an applicant or tenant to provide verification of disability for the reasonable accommodation or modification unless the disability is evident
- Expect verification to show the connection between the disability and reasonable accommodation or modification, and that it is needed to get into housing or for reasonable enjoyment and use of housing
- Keep information about someone’s disability confidential

If someone is a tenant and the landlord cannot grant the request, the landlord should work with the tenant to find a reasonable alternative.

A landlord should not:

- Ask for detailed information about the nature of the disability
- Ask for an applicant’s or tenant’s medical records
- Share information about a resident’s disability with other residents
- Require a tenant or applicant to be examined by the landlord’s medical or mental health provider (or charge applicant or tenant for this)
- Require an applicant or tenant to use a specific form provided by the landlord to request a reasonable accommodation or modification or to obtain verification of your disability

- Require that a verifier report the reasonable accommodation or modification is necessary to live independently
- Charge deposits for scooters, wheelchairs, caregivers, assistance animals, or other items needed for an accommodation or modification
- Charge any additional fees, rent, or deposits due to the disability or the reasonable accommodation

You can contact the Fair Housing Council of Oregon if you would like:

- More information about fair housing rights for people living with disabilities
- Information specific to a situation you are experiencing
- Assistance with requesting a reasonable accommodation or modification
- To report illegal housing discrimination
- To learn more information about other types of fair housing protections

Please contact us at (800) 424-3247, ext. 2 or [information@fhco.org](mailto:information@fhco.org).

## **Section Nine: More on Fair Housing Rights**

The federal Fair Housing Act makes it illegal for landlords, home owners associations, real estate agents, mortgage brokers, lenders, insurance companies, and others to discriminate against anyone because of:

- Race
- Color
- Religion
- National origin (which country someone is from)
- Sex
- Familial Status (families with kids)
- Disability

Oregon Law also includes:

- Marital status
- Source of income (including Section 8 vouchers, housing assistance, TANF, SSI, SSDI, etc.)
- Sexual orientation
- Gender identity
- Survivors of domestic violence, sexual assault, or stalking

Some counties, cities, and towns add additional protected classes.

Asking the following questions may help someone understand if they have experienced housing discrimination.

- Has an applicant or tenant been treated differently than other applicants or tenants?

If the answer is *no*, this may not be illegal based on fair housing law.

If the answer is *yes*, it will be helpful to answer these next two questions:

- Is the applicant or tenant being treated differently because of race, color, religion, national origin, marital status, sex, familial status (families with kids), disability, source of income, sexual orientation, gender identity, and/or because of being a survivor of domestic violence?
- Does a landlord have screening criteria that makes it so an applicant or tenant does not qualify for housing because of race, color, religion, national origin, marital status, sex, familial status (families with kids), disability, source of income, sexual orientation, gender identity, and/or because you are a survivor of domestic violence?

If an applicant or tenant answered yes to one of these last two questions, this may be illegal housing discrimination.

If you believe that you have experienced illegal housing discrimination, you can contact the Fair Housing Council of Oregon at (800) 424-3247, ext. 2 or [information@fhco.org](mailto:information@fhco.org).