

**HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS
NONDISCRIMINATION ON THE BASIS OF DISABILITY AND
REASONABLE ACCOMMODATION POLICY**

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I. GENERAL POLICY

- A. It is the policy of the Housing Authority of the County of Stanislaus (HACS) to comply fully with the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Unruh Act, and the California Fair Employment and Housing Act. The policy incorporates by reference the requirements of those laws and applicable regulations.
- B. The HACS strives to provide equal opportunity for all individuals, (including individuals with disabilities and families that include a member with disabilities), to participate in and benefit from programs that are administered by the HACS. The HACS will provide reasonable accommodations under all its programs properties, and related facilities in accordance with this policy. The HACS will seek to identify and eliminate conditions that create barriers to equal opportunity and, whenever possible, will make physical and procedural changes in order to reasonably accommodate people with disabilities.
- C. The HACS will be thorough and prompt in reviewing accommodation requests and will explain the basis of any denial.
- D. The HACS will review all requests for a reasonable accommodation on a case-by-case basis.
- E. It is the responsibility of the Client to identify the type of accommodation best suited to their disability needs. Clients are encouraged to communicate alternative accommodations that would meet their needs. HACS will enter into negotiation with the Client to identify alternative accommodations if the initial request is not reasonable.
- F. Through its marketing/outreach program the HACS seeks to attract a broad section of low-income families, including person(s) with disabilities.
- G. The HACS will make written communications available to Clients in alternative formats such as Braille, large print, audio, or electronic formats if requested by a Client with a disability or a disabled family member.
- H. The Director of HCV Programs shall be designated as the Accessibility (Section 504) Coordinator for the HACS and will be responsible for the coordination of compliance activities, record keeping, and shall be the final determiner of accommodation grievances.

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II. APPLICABILITY

This policy applies to all clients of HACS programs including but not limited to:

- Public (or Conventional) Housing Program
- Section 8 Housing Choice Voucher (HCV) Program
- Project Based Section 8 HCV Programs
- Other programs (both housing and non-housing) administered by the HACS.

III. DEFINITIONS (Listed in alphabetical order)

1. Client

For the purpose of this policy, Client shall mean a current or former: applicant for, participant in, or resident of a HACS housing or non-housing program.

2. Individuals with a Disability

Individuals with disabilities are defined as persons with a physical or mental impairment that limits one or more major life activities; has a record of such impairments; or is regarded as having such an impairment.

The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

a) Family with a member with disabilities

As used in this chapter, the term family with a member with disabilities means a family that consists of: 1) a sole disabled member or 2) several members, at least one of whom is a disabled person

b) Has a record of such an impairment

Means has a history of, or has been classified as having, a mental or physical impairment that limits one or more major life activities.

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c) Is regarded as having an impairment means

- 1) Has a physical or mental impairment that does not limit one or more major life activities but is treated by HACS as constituting such a limitation;
- 2) Has a physical or mental impairment that limits one or more major life activities only as a result of the attitudes of HACS staff toward such impairment; or
- 3) Has no impairments but is treated by HACS staff as having impairment.

d) Major life activities

Functions such as, but not limited to: caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

3. Live-in Aide

A live-in aide is a person who resides with one or more elderly persons, near elderly persons or persons with disabilities and who is:

- (1) determined to be essential to the care and well-being of the persons;
- (2) is not obligated for the support of the persons; and
- (3) would not be living in the unit except to provide the necessary supportive services.

Per HUD guidelines, for the Section 8 HCV program, occasional, intermittent, multiple or rotating care givers are considered guests or employees, not Live-in Aide(s) – for the purpose of listing on the HUD 50058 and for determining whether an additional bedroom size is approved on the voucher.

4. Mitigating Circumstances

A disability related situation that effects an individual's or household's ability to comply with the HACS program requirements and results in an adverse action by the HACS against the Client. Examples of an adverse action

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include, but are not limited to: eviction, termination, removal from the waiting list, or cancellation of a voucher.

5. Nexus

The connection or link between the stated disability and the accommodation requested.

6. Provider/Worker

A Provider/Worker is a reliable third party generally defined but not limited to:

A “Provider” is a medical or mental health care provider qualified to render a professional opinion in regard to the disability. Providers include but are not limited to: a licensed physician, physical therapist, and psychiatrist.

A “Worker” includes, but is not limited to, a social worker, caseworker, or counselor from a government or private agency who is in position to know of the individual’s disability.

7. Reasonable Accommodation

A reasonable accommodation is a change, exception or adjustment that the HACS makes to its rules, policies, practices, procedures or to its housing units or common areas that will provide a person with a disability an equal opportunity to participate in and benefit from the programs administered by the HACS.

A reasonable accommodation does not include accommodations that would require a fundamental alteration to the nature of HACS’s operations or program rules or would create an undue financial and administrative hardship.

There must be an identifiable relationship (“nexus”) between a requested accommodation and an individual’s disability.

IV. NOTIFICATION REGARDING REASONABLE ACCOMMODATION POLICY

- A. Each HACS business office will post a current HACS Notice of Nondiscrimination that provides information about the HACS's reasonable accommodation policy and examples of accommodations that a program participant may request. As needed, the Notice and/or a copy of this

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policy may be made available in alternative format upon request of a person with disabilities.

- B. Copies of the policy, procedures, and forms will be available on the HACS website www.stancoha.org and at each program office.
- C. The Request for Reasonable Accommodation form will be provided in re-examination packets, applications, at voucher issuance sessions, and resident orientations. The forms may be provided at any time at the request of a Client.
- D. HACS staff will provide information on the reasonable accommodation request process, the forms used to request reasonable accommodation and assistance in completing forms as necessary.

V. PROGRAM ACCESSIBILITY

- A. **Non-Housing Facilities.** New non-housing facilities will be made readily accessible to and usable by individuals with disabilities. Existing facilities are made accessible to individuals with disabilities to the maximum extent feasible (without imposing undue financial and administrative burdens on the HACS operations).
- B. **New Construction.** New multifamily projects shall be accessible to and usable by people with disabilities as required under current law and applicable regulation.
- C. **Alterations to HACS-Owned Existing Housing.** As alterations are undertaken to existing housing developments a minimum of five percent of the total dwelling units will be made accessible for persons with mobility impairments and an additional two percent of the units will be made accessible for persons with hearing or vision impairments. Reasonable modifications to units will be made at no charge to a resident who has verified a need for the modification due to his/her disability as defined under federal law. Persons who have a disability as defined under CAL-FEHA, but not under federal law, may request the HACS's approval for unit modifications to be installed at the resident's own expense.
- D. **Tenant-Based Section 8 HCV Department Programs.** The HACS encourages owners to provide accessible units and reasonable accommodations to Section 8 HCV Program applicants and participants.

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Households with a disabled member may request owner approval for unit modifications. Clients are encouraged to consult with disability rights specialists for information regarding tenant/landlord responsibilities regarding unit/common area modifications. The HACS's contracts shall include the necessary language to assure nondiscrimination. In addition, the HACS maintains a list of properties which owners have described as accessible to its Section 8 Program applicant and participant families.

E. Public Meetings.

1. To the greatest extent possible, public meetings will be held in accessible locations.
2. Reasonable accommodations for persons with disabilities will be available upon request.
 - a. Requests for sign language interpretation should be made at least five (5) working days prior to the scheduled meeting to ensure availability. Requests received with less notice will be accommodated to the extent possible.
 - b. Notices announcing meetings will include contact information to request accommodations.

VI. EXAMPLES OF REASONABLE ACCOMMODATIONS

Reasonable accommodation methods or actions that may be appropriate for a particular program and person may be found to be inappropriate for another program or individual. Decisions to approve or deny requests for reasonable accommodations shall be made on a case-by-case basis with the consideration of the disability and the needs of the person as well as the nature of the program or activity in which the person seeks to participate.

The following are examples of reasonable accommodations; it is not intended to be an exclusive list.

- A. If a person with disabilities is unable to come to the office due to a disability, a HACS staff member may upon the Client's request:
 1. Re-schedule the interview to accommodate the family's needs;

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2. Conduct the interview by phone and mail the documents to the family for signature(s); or
 3. Schedule a non-office visit (e.g. visit at home or nursing home).
- B. If a person with disabilities has difficulty understanding or filling out forms, the HACS staff shall assist the individual if requested and advise the person with disabilities that he or she may bring someone with him or her to assist with the interview.
- C. If a person with disabilities has a hearing impairment, the HACS shall provide a Sign Language Interpreter if requested five (5) working days in advance. If requested less than five (5) working days in advance, the HACS shall provide a Sign Language interpreter if possible.
- D. If a person with disabilities has a vision impairment, if requested, the HACS staff shall:
1. Assist as a reader in completing forms;
 2. Permit the interview to be recorded;
 3. Allow the individual to bring someone to assist him/her; or
- E. Provide a space to accommodate an assistive animal or device.
- F. Reissue a voucher so that the family can locate a unit that has necessary accessibility features.
- G. Extend the voucher search time so family can locate unit with necessary accessible features.
- H. Provide a larger subsidy size in order to rent a larger bedroom size unit to accommodate special needs such as accessibility, a live-in aide, rotating caregivers, or large medical equipment.
- I. Provide an exception to the Fair Market Rents or Voucher Payment Standards to allow the family to rent a unit accessible to the family.
- J. Provide an exception to the “renting to relatives rule”.

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- K. Provide an exception to the HACS unit guest policy for rotating caregivers.
- L. Make physical modifications to a common area.
- M. Accessible Units

Examples of unit modifications include but are not limited to:

1. A fully accessible unit.
2. A unit equipped with a smoke alarm and/or other amenities such as a flashing doorbell designed for persons with a hearing impairment.
3. Grab bars, handrails, or lever handles instead of knobs at doors and sinks.
4. If a public housing household has a member with disabilities that needs a reasonable accommodation, and the current unit cannot be reasonably modified, the resident will be offered a transfer to a suitable unit in accordance with the transfer procedure outlined in the Admissions and Continuing Occupancy Policy.

VII. DISALLOWED ACCOMMODATIONS

The following accommodations are prohibited per federal regulations.

A. Medical Marijuana

HUD has determined that the use of medical marijuana, as allowed by State law, is disqualified from protection under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. As such, any request for a reasonable accommodation approving the use of medical marijuana will be denied.

B. Shared Housing

Dwelling units where the owner resides in the unit and is related by blood or marriage to the Section 8 voucher holder cannot be occupied by the Section 8 voucher holder as a reasonable accommodation.

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VIII. REASONABLE ACCOMMODATION REQUEST

Clients with a disability may request a reasonable accommodation during the application process, residency in public housing, or participation in the Housing Choice Voucher Program of the HACS.

- A. A Client may request a reasonable accommodation by submitting a Reasonable Accommodation Request form, or through other written or oral format that provides the pertinent information needed. The Reasonable Accommodation Request form is included in application and income re-examination packets. A Client may request the form from HACS staff and submit it at any other time as needed.
- B. Except in situations when a Client is able to self-certify as outlined in Section D below, the nexus between the disability and the accommodation requested shall be verified by the Provider/Worker indicated by the individual on the Reasonable Accommodation Request form. The Client may provide other acceptable documentation in line with HACS's verification hierarchy.
- C. Other acceptable documentation includes but is not limited to a letter to the HACS from a Provider/Worker on his/her letterhead. Such documentation will be accepted in lieu of the Reasonable Accommodation Request form if the documentation identifies: 1) the individual as a person with disabilities 2) the accommodation requested; and 3) link (nexus) between the disability and the requested accommodation.
- D. As an alternative to third party verification process, a person with disabilities may self-certify his/her disability and his/her need for an accommodation if the following conditions exist:
 - 1. The individual has an obvious and/or visible disability (such as an individual who regularly uses a walker or an individual with a hearing impairment) and
 - 2. The accommodation requested is clearly related to the individual's disability (for example, a mobility-impaired person requests a grab bar or a hearing-impaired person requests a sign language interpreter).

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IX. REQUEST FOR CONSIDERATION OF MITIGATING CIRCUMSTANCES

- A. A family with a member with a disability who would normally be/or was denied, terminated from a HACS program, or evicted from HACS owned housing due to the family's action or inaction may request consideration of mitigating circumstances related to a disability.
- B. Based upon the documentation provided, a mitigating circumstance shall be granted if:
 - 1. The action or inaction of the family was due to a family member's disability; and
 - 2. A reasonable accommodation related to the person would allow the person to fulfill program obligations or requirements.
- C. The family may be (where appropriate) required to enter into an agreement with the HACS that outlines the conditions that the family will follow to ensure that they meet and maintain the essential eligibility requirements for participation in a specific program.
- D. A recurrence of the action or inaction by the family following the granted reasonable accommodation due to mitigated circumstances may result in denial, termination or eviction. However, HACS will evaluate any further reasonable accommodation requests on a case by case basis, even where the Client has previously received an accommodation regarding action or inaction that violated program rules.

X. REASONS FOR DENIAL OF ACCOMMODATION REQUESTS

Any denial of a reasonable accommodation request must be reviewed and approved by the Accessibility Coordinator or his or her designee to ensure that the decision is in accordance with ADA and Fair Housing guidelines and HACS policy. The following are reasons why a request for a reasonable accommodation may be denied:

- A. Constitutes a direct threat to the health and safety of other individuals;
- B. Results in substantial physical damage to the property of others;

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- C. Results in a fundamental alteration of the program;
- D. Causes an undue administrative and financial burden, if granted;
- E. There is no relationship (nexus) between the disability and the requested accommodation;
- F. Inability to obtain verification that a disability exists in cases when the disability is not evident;
- G. The Client fails to provide information or documentation as requested by the HACS (case may be reopened once all necessary documentation is provided), or
- H. The accommodation has been previously granted, but was not effective in enabling the person with disabilities to meet the statutory eligibility requirements of the program and there is no evidence to indicate that the requested reasonable accommodation would now be effective.

XI. RESPONSE TO REQUESTS

- A. The HACS will promptly respond in writing to a request for a reasonable accommodation or consideration of mitigating circumstances with a decision or a request for additional information not to exceed 10 calendar days from receipt of verification(s).
- B. When a request for additional information is made, the Client must respond within 15 calendar days of such request, except in cases of extenuating circumstances.

A request may be reopened if the documentation is received after the stated deadline.
- C. Upon receipt of the necessary information, the HACS will respond within 10 calendar days, except in cases of extenuating circumstances. In such cases of delay, the HACS will notify the Client in writing why additional time is needed to respond to the request.

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- D. HACS will take into consideration a Client's disability and its impact on the Client's ability to comply with deadlines.
- E. Notifications of approved reasonable accommodation requests will be forwarded to the appropriate staff to implement the accommodation. Notifications of denied reasonable accommodation requests will state the reason(s) for denial and will provide information on the procedures for appealing the determination.
- F. If the requested reasonable accommodation is denied based on one or more of the reasons set forth above in Section X, the HACS will engage in an interactive process to attempt to provide reasonable accommodation. The interactive process should include discussion of whether there is a reasonable alternative accommodation that would effectively meet the requester's disability-related needs. If the HACS believes that, while the accommodation requested by an individual is reasonable, there is an alternative accommodation that would be equally effective in meeting the individual's disability-related needs, the HACS will offer the alternative accommodation to the individual and allow the individual at least seven days to accept the offer. The HACS acknowledges, however, that persons with disabilities typically have the most accurate knowledge about the functional limitations posed by their disability, and further acknowledges that an individual is not obligated to accept an alternative accommodation suggested by HACS if the individual believes it will not meet his or her needs, and the requested accommodation is reasonable.

XII. GRIEVANCES

If a request for a reasonable accommodation is denied or a Client believes that they have been discriminated against due to their disability, the Client may submit a request for an Informal Hearing.

- A. The request for Informal Hearing may be submitted on the HACS Informal Hearing Request form or in another written format that provides the same information as requested on the HACS form within thirty (30) calendar days of the Client being notified of the initial denial or discrimination incident.
- B. The Hearing Request must specify why the Client believes the decision by the HACS is not correct.

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- C. In communicating with a Client during the grievance process, HACS will take into consideration a client's disability and its impact on the client's ability to comply with deadlines.
- D. Applicants, residents, and participants may at any time exercise their right to appeal a HACS decision through the local HUD office or the United States Department of Justice. The local HUD office's contact information is provided below:

U.S. Department of Housing and Urban Development
600 Harrison Street
San Francisco, CA 94107
Telephone: (415) 489-6500 TTY: (415) 489-6564
Fax: (415) 489-6560

XIII. RECORDS AND CONFIDENTIALITY

- A. The HACS shall maintain in the individual file of any client requesting reasonable accommodation copies of the following documents for a period of seven years from the date of the reasonable accommodation request: the Request(s) for Reasonable Accommodation; the Denial or Approval Notice(s); any final decision following an informal hearing; any settlement agreements; any decision(s) of an administrative agency or a court; documentation that an approved accommodation has been implemented; and all correspondence between the client and the HACS and between the HACS and verification sources concerning the reasonable accommodation request.
- B. The HACS HCV and Occupancy Departments shall maintain a distinct logs containing a record of all the reasonable accommodation requests made by Clients in the respective departments, all the responses to and decisions made by the HACS on those requests, and all follow up actions taken by the HACS for a period of seven years from the date of each request. The Occupancy Department log shall also include information on all reasonable accommodation transfer requests and the resulting responses and decisions.
- C. All information submitted to the HACS by a Client requesting reasonable

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accommodation on the basis of disability or by any verification source which relate to the nature or effects of the disability shall be kept confidential and used solely to make a determination on the reasonable accommodation request. The protection of confidentiality shall extend to all information contained within an individual files of Clients, the Occupancy Department and the HCV Department reasonable accommodation logs, and all other HACS files which relates to the nature or effects of an individual's disability. This information may not be revealed to other residents or to another housing provider who calls for a reference or to any HACS staff not involved in evaluating the reasonable accommodation request. This requirement does not, however, prevent HACS employees from stating to another housing provider whether the person has complied with HACS lease obligations.