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***FAIR HOUSING:  
IT'S THE LAW!***

*A nonprofit organization protecting and advancing the legal rights of people with mental disabilities.*

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## ***Fair Housing Tip of the Month – March 2021***

### **How Should Housing Providers Handle Competing Requests for Reasonable Accommodations?**

**NON-PROFIT HOUSING PROVIDER:** *“My organization provides affordable housing and disability-related services for people who have experienced homelessness. Since we exclusively serve individuals with disabilities, we receive many reasonable accommodation requests. We can easily and quickly grant some requests, such as allowing an emotional support animal or changing the rent due date to align with the date a tenant receives monthly disability benefits payments. However, some requests, especially when a tenant needs to move to a different unit, may be more difficult or take more time to grant. Sometimes we have several tenants waiting to move to different units that better accommodate their disabilities. How can we lawfully prioritize reasonable accommodation requests?”*

**The law says:** When two or more valid requests compete for a reasonable accommodation subject to limited availability, priority may be established using procedures adopted by a housing provider for handling such requests. However, such procedures for prioritizing reasonable accommodation requests must themselves be flexible and subject to reasonable accommodation.

Fair housing laws require housing providers to consider and act on reasonable accommodation requests made by persons with disabilities. A “reasonable accommodation” is any change in rules, policies, practices, or procedures that is needed by a person with a disability in order to fully enjoy or use a dwelling and/or other services or benefits available from the provider. Changes are considered reasonable if they are necessary to provide someone with a disability an equal opportunity to use and enjoy the housing and/or services, unless they would fundamentally alter the nature of the housing or services provided or impose an undue financial or administrative burden on the housing provider.

**What to do:** Your organization must develop procedures to consider reasonable accommodation requests on a case-by-case basis, taking into account each requester’s individual needs and your organization’s actual financial and administrative resources at the time of consideration. Sometimes this may result in granting reasonable accommodation requests on what effectively amounts to a first-come, first-served basis. As your financial and logistical capacity changes, including through the exhaustion of resources to grant prior reasonable accommodation requests, you may not be able to provide later requesters with the same accommodations you were able to provide to earlier requesters.

When it is not possible for you to immediately grant a reasonable accommodation request (e.g., in the case of a unit transfer request when discretionary funds have been depleted and housing navigators are fully occupied with preexisting placement efforts), you should place the tenant on a waitlist until the needed financial and administrative resources are replenished. At the same time and with the tenant’s permission, you can also submit a reasonable accommodation request to other accountable housing providers in an effort to improve the likelihood of timely implementation.

Any policy or practice can be the subject of a reasonable accommodation request, including a policy or practice that itself pertains to reasonable accommodations. Thus, a tenant with a disability can request that you make an exception to your practice of considering reasonable accommodation requests in the order they were received. If a tenant asks to be moved to the top of the waitlist, you are obligated to consider that request just as you would consider any other reasonable accommodation request. You would need to consider all relevant factors, including the severity of the tenant’s disability-related need, the financial and administrative burden of granting the request, and whether it would result in a fundamental alteration in the nature of the housing and/or services you offer.

If a housing provider refuses to consider a request for reasonable accommodation or refuses to engage in an interactive process, a tenant can file a complaint with a local fair housing agency, the California Department of Fair Employment and Housing (DFEH), or the U.S. Department of Housing and Urban Development (HUD).

To file a complaint with HUD, call 800-669-9777, or visit [www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/complaint-process](http://www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process)

To file a complaint with DFEH, call 800-884-1684, or visit [www.dfeh.ca.gov/complaint-process/file-a-complaint/](http://www.dfeh.ca.gov/complaint-process/file-a-complaint/)

Fair housing laws prohibit discrimination in housing based on the following characteristics: race, religion, national origin, color, sex, familial status, disability, marital status,\* ancestry,\* sexual orientation,\* gender identity,\* gender expression,\* genetic information,\* and source of income.\*

\*Covered under California law, but not federal law. (For most housing, California laws also prohibit discrimination on the basis of citizenship, immigration status and primary language.)

***Disclaimer: The Fair Housing Tip of the Month is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact MHAS, your local fair housing council or another attorney of your choice.***

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