

Fair Housing Tip of the Month – January 2022

Reasonable Modifications to Housing for Tenants with Mental Health Disabilities

Tenant: *“I am a tenant in a project-based Section 8 housing complex. I have a mental health disability that causes issues with attention and short-term memory. Because of my disability I sometimes forget simple things like turning off the faucet after washing dishes, or turning off the stove after cooking. This has led to the sink overflowing or the stove remaining on all night. I’m worried about causing a flood or a fire, and the constant worrying has actually made my mental health issues worse. I’ve seen those sinks in public places that turn off automatically. Can I ask my landlord to install an automatic shut-off faucet in my kitchen? I also want to request that they disconnect the stove and install a microwave instead, but there is very little counter space so I think they would have to put a microwave in above the stove. Do I have a right to request these changes to my apartment?”*

The law says: **Yes**, a tenant with a disability has a right to reasonable modifications necessary for full use and enjoyment of an apartment. Federal and California fair housing laws recognize that a tenant with a disability may need to make structural changes to allow for equal opportunity to live in and enjoy housing. Structural changes to a unit and/or common areas of the premises that ensure equal access to housing for a person with a disability are called “reasonable modifications.” Typically, when we think of reasonable modifications, we think of changes needed by a person with a physical disability (for example, a ramp for a wheelchair user). However, sometimes people with mental health disabilities need structural changes as well. Installing a microwave and a faucet that turns off automatically are structural changes that might be required to enable you to safely and successfully use and enjoy your housing.

Generally, tenants are responsible for the costs of making modifications both to their unit and in the common area. However, if the housing complex receives federal financial assistance, structural changes needed by a tenant with a disability must be paid for by the landlord, unless providing them would be an undue financial or administrative burden, or fundamentally alter the housing program. Since your unit is in project-based Section 8 housing, your landlord receives federal financial assistance from the Section 8 housing program. Installing an automatic shut-off faucet and a microwave are unlikely to unduly burden your housing provider. Therefore, your landlord should pay for the reasonable modifications you need in your apartment.

What to do: Ask your landlord, preferably in writing, to install a microwave and a faucet that turns off automatically, both as reasonable modifications. Make sure you explain the connection between these changes and your disability. If your disability is not obvious or known to the landlord, or if the connection between the requested modification and the disability is not clear, your landlord can request verification of your disability and/or the disability-related need for the modification. Verification can typically be provided directly by you through a variety of self-certification methods (for example, documentation of receipt of



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



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disability benefits or your credible statement) or from a reliable third party who knows about your disability and the need for the requested modifications (such as a letter from a medical provider or case worker).

Once you've made these reasonable modification requests, your landlord is required by law to engage in what is known as the "interactive process." This means that landlords cannot ignore or flatly deny reasonable modification requests without trying to find a solution that meets the tenant's disability-related needs. If a landlord believes that they cannot grant the exact request, they must provide a reasonable alternative that will accommodate the tenant's disability.

If your landlord denies your request and refuses to engage in an interactive process, you 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

To file a complaint with DFEH, call 800-884-1684, or visit 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.

The Fair Housing Tip of the Month campaign is based on work supported by the Department of Housing and Urban Development (HUD) under FHIP Grant #FEOI20029. Any opinion, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of HUD.