

## Definition of Disability

Federal laws define a person with a disability as “Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.”

In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation that substantially limits one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

## Disability rights in private and public housing

Regardless of whether you live in private or public housing, Federal laws provide the following rights to persons with disabilities:

- Prohibits discrimination against persons with disabilities. It is unlawful for a housing provider to refuse to rent or sell to a person simply because of a disability. A housing provider may not impose different application or qualification criteria, rental fees or sales prices, and rental or sales terms or conditions than those required of or provided to persons who are not disabled.

*Example: A housing provider may not refuse to rent to an otherwise qualified individual with a mental disability because he or she is uncomfortable with the individual's disability. Such an act would violate the Fair Housing Act because it denies a person housing solely on the basis of their disability.*

- Requires housing providers to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change in rules, policies, practices, or services so that a person with a disability will have an equal opportunity to use and enjoy a dwelling unit or common space. A housing provider should do everything he or she can to assist, but he or she is not required to make changes that would fundamentally alter the program or create an undue financial and administrative burden. Reasonable accommodations may be necessary at all stages of the housing process, including application, tenancy, or to prevent eviction.

*Example: A housing provider would make a reasonable accommodation for a tenant with mobility impairment by fulfilling the tenant's request for a reserved parking space in front of the entrance to their unit, even though all parking is unreserved.*

- Requires housing providers to allow persons with disabilities to make reasonable modifications. A reasonable modification is a structural modification that is made to allow persons with disabilities the full enjoyment of the housing and related facilities.

*Examples of a reasonable modification would include allowing a person with a disability to: install a ramp into a building, lower the entry threshold of a unit, or install grab bars in a bathroom.*

- Reasonable modifications are usually made at the resident's expense. However, there are resources available for helping fund building modifications. Additionally, if you live in Federally assisted housing the housing provider may be required to pay for the modification if it does not amount to an undue financial and administrative burden.

## Fair Housing Information for Persons with Disabilities

- Requires that new covered multi-family housing be designed and constructed to be accessible. In covered multi-family housing consisting of four or more units with an elevator built for first occupancy after March 13, 1991, all units must comply with the following seven design and construction requirements of the Fair Housing Act:
  - Accessible entrance on an accessible route
  - Accessible public and common-use areas
  - Usable doors
  - Accessible route into and through the dwelling unit
  - Accessible light switches, electrical outlets, thermostats, and environmental controls
  - Reinforced walls in bathrooms
  - Usable kitchens and bathrooms

In covered multi-family housing without an elevator that consists of four or more units built for first occupancy after March 13, 1991, all ground floor units must comply with the Fair Housing Act seven design and construction requirements. For information on how to comply with the physical accessibility requirements of the Fair Housing Act, visit the Fair Housing Accessibility FIRST website at [www.fairhousingfirst.org](http://www.fairhousingfirst.org).

These requirements apply to most public and private housing; however, there are limited exemptions for owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

If you live in Federally assisted multi-family housing consisting of five or more units, 5 percent of these units (or at least one unit whichever is greater) must meet more stringent physical accessibility requirements. Additionally, 2 percent of units (or at least one unit whichever is greater) must be accessible for persons with visual or hearing disabilities.

**People with disabilities in Federally assisted housing:** Federal law makes it illegal for an otherwise qualified individual with a disability to be excluded, solely because of his or her disability, from programs receiving Federal financial assistance. For more information on the rights of persons with disabilities in Federally assisted housing, as well as the responsibilities of housing providers who receive Federal financial assistance, visit HUD's website on Section 504: Disability Rights at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/disabilities/sect504](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504).

**Zoning and land use:** It is unlawful for local governments to utilize land use and zoning policies to keep persons with disabilities from locating to their area.

**State and local laws:** Many states and localities have fair housing laws that are substantially equivalent to the Federal Fair Housing Act. Some of these laws prohibit discrimination on additional bases, such as source of income or marital status. Some of these laws may impose more stringent design and construction standards for new multi-family housing.

**The Americans with Disabilities Act (ADA):** In most cases, the ADA does not apply to residential housing. Rather, the ADA applies to places of public accommodation such as restaurants, retail stores, libraries, and hospitals as well as commercial facilities such as offices buildings, warehouses, and factories. However, Title III of the ADA covers public and common use areas at housing developments when these public areas are, by their nature, open to the general public. For example, it covers the rental office since the rental office is open to the general public.

## 3 Fair Housing Information for Persons with Disabilities

Title II of the ADA applies to all programs, services, and activities provided or made available by public entities. This includes housing when the housing is provided or made available by a public entity. For example, housing covered by Title II of the ADA includes public housing authorities that meet the ADA definition of “public entity,” and housing operated by States or units of local government, such as housing on a State university campus.