

OAKLAND REGIONAL OFFICE
1330 Broadway, Suite 500 Oakland, CA 94612
Telephone: (510) 267-1200 Fax: (510) 267-1201
Toll Free: (800) 776-5746 TTY/TDD: (800) 649-0154

www.disabilityrightsca.org

MEMORANDUM

TO: Interested Persons

FROM: Fred Nisen, Staff Attorney

RE: **Reasonable Accommodations Under Section 8**

DATE: June 7, 2006

Under state and federal fair housing laws, a landlord must provide reasonable accommodations to people with disabilities when necessary to enable them to use and enjoy housing. Under the Section 8 program, there are a number of specifically identified reasonable accommodations that must be available to individuals with disabilities who receive Section 8. Below is a summary of these reasonable accommodations.

Higher Rent:

Generally, the Public Housing Authority (PHA) may set a payment standard amount for a unit size at any level between 90 % and 110% of the published fair market rate (FMR) for that unit size. 24 C.F.R. § 982.503(b)(1)(i). However, the U.S. Department of Housing and Urban Development (HUD) Field Office may approve an exception payment rent between 110% and 120% of the FMR. *See* 24 C.F.R. § 982.503(c)(2)(i). A housing authority must approve an exception rent as a reasonable accommodation FMR if necessary for a family that includes a person with a disability to obtain housing within the voucher term. 24 C.F.R. § 8.28(a)(5).

Higher Utility Allowance:

Under the Section 8 regulations, a family with a person with a disability can make a request for a higher utility allowance as a reasonable accommodation. Upon such a request, the PHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule maintained by the PHA if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the person with a disability. 24 C.F.R. § 982.517(e).

Longer Search Time:

The term of a Section 8 voucher is at least sixty (60) calendar days. 24 C.F.R. § 982.303(a). Hence, once a person receives a Section 8 voucher, he or she must find an apartment within 60 days. However, if a family needs and requests an extension of this initial voucher term of 60 days as a reasonable accommodation to make the program accessible to a person with a disability, the PHA must extend the term of the voucher up to the term reasonably required to accommodate the disability. 24 C.F.R. § 982.303(b)(2); see also 24 C.F.R. § 8.28(a)(4) (A PHA must “[t]ake into account the special problem of ability to locate an accessible unit when considering requests by eligible individuals with handicaps for extensions of Housing Certificates or Housing Vouchers.”)

Live-In Aides:

A person with a disability can request that the PHA approve a live-in aide to live in the unit with the person with a disability. The PHA must approve a live-in aide if the live-in aide is needed as a reasonable accommodation to make the program accessible to and usable by the person with a disability. 24 C.F.R. § 982.316(a). A live-in aide affects the size of the family unit and, therefore, may increase the number of bedrooms a person can receive. See 24 C.F.R. § 982.402(b)(6). For example, a single person is entitled to a studio or one-bedroom apartment, but if there is a live-in aide, that person is eligible for a two-bedroom apartment. However, the PHA can refuse a particular live-in aide if that person committed a corrupt or criminal act against the PHA; has committed drug-related or violent criminal activity; or owes money to any PHA under a federal housing program. 24 C.F.R. § 982.316(b).

Reinstatement on Waiting List:

A PHA may remove from the waiting list names of applicants who do not respond to PHA requests for information and updates. 24 C.F.R. § 982.204(c)(1). However, a decision to remove the name of a family with a person with a disability is subject to reasonable accommodation. 24 C.F.R. § 982.204(c)(2). If the applicant did not respond to the PHA request for information or updates because of the person’s disability, the PHA must reinstate the applicant in the family’s former position on the waiting list. *Id.*

Renting From a Relative:

Generally, a PHA must not approve an owner under Section 8 if he or she is a relative of a tenant. 24 C.F.R. § 982.306(d). However, the PHA may approve such an owner if it would be a reasonable accommodation for the family member, who is a person with a disability. *Id.*

Assistance with Finding Accessible Unit:

When A PHA issues a voucher to a family with a person with a disability, it must provide a current listing of available accessible units known to the PHA and, if necessary, otherwise assist the family in locating an accessible unit. 24 C.F.R. § 8.28(a)(3).