

## **Exhibit 1-1**

### **Reasonable Accommodations**

#### **1. Non-Discrimination in AHFC Programs**

##### **U.S. Code Title 42, Section 3604(f)**

Discrimination in the sale or rental of housing and other prohibited practices. As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful –

- (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of-
  - (A) that buyer or renter,
  - (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
  - (C) any person associated with that buyer or renter.
  
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of-
  - (A) that person; or
  - (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
  - (C) any person associated with that person.
  
- (3) For purposes of this subsection, discrimination includes –
  - (B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling;

##### **HUD Regulation – 24 CFR 8.4(a)**

No qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department.

In addition to U.S. Department of Housing and Urban Development regulations<sup>1</sup>, AHFC is also relying on technical guidance provided in the Joint Statement of the

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<sup>1</sup> Public & Indian Housing Notice 99-52 issued December 15, 1999. Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations under the Fair Housing Act<sup>2</sup>.

## 2. Access to Programs or Services

### **HUD Regulation – 24 CFR 8.4(b)(2)**

For purposes of this part, housing, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for individuals with handicaps and non-handicapped persons, but must afford individuals with handicaps equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement.

### **HUD Regulation – 24 CFR 8.4(d)**

Recipients shall administer programs and activities receiving Federal financial assistance in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

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-Updated with Public & Indian Housing Notice 2002-01 issued January 22, 2002. Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

-Updated with Public & Indian Housing Notice 2003-31 issued November 26, 2003. Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

-Updated with Public & Indian Housing Letter L-2007-05 issued September 21, 2007. Reinstatement of Notice PIH 2006-13, Non-Discrimination and Accessibility for Persons with Disabilities.

-Updated with Public & Indian Housing Notice 2010-26 issued July 26, 2010. Non-Discrimination and Accessibility for Persons with Disabilities.

-Public & Indian Housing Notice 2006-13 issued March 8, 2006. Non-Discrimination and Accessibility for Persons with Disabilities.

-Updated with Public & Indian Housing Letter L-2007-05 issued September 21, 2007. Reinstatement of Notice PIH 2006-13, Non-Discrimination and Accessibility for Persons with Disabilities.

-Updated with Public & Indian Housing Notice 2010-26 issued July 26, 2010. Non-Discrimination and Accessibility for Persons with Disabilities.

-Public & Indian Housing Notice 2011-31 and FHEO Notice 2011-1 issued June 13, 2011. Guidance on non-discrimination and equal opportunity requirements for PHAs.

<sup>2</sup> [Issued](#) by the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, May 17, 2004.

### **AHFC Policy**

AHFC will take all reasonable actions necessary to ensure that persons with disabilities have full access to available resources in each Alaskan community served.

### **HUD Regulation – 24 CFR 8.20**

General requirement concerning program accessibility.

Except as otherwise provided in §§8.21(c)(1), 8.24(a), 8.25, and 8.31, no qualified individual with handicaps shall, because a recipient's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance.

(c) Existing non-housing facilities –

(1) General. A recipient shall operate each non-housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not –

- (i) Necessarily require a recipient to make each of its existing non-housing facilities accessible to and usable by individuals with handicaps;
- (ii) In the case of historic preservation programs or activities, require the recipient to take any action that would result in a substantial impairment of significant historic features of an historic property; or
- (iii) Require a recipient to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. If an action would result in such an alteration or such burdens, the recipient shall take any action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

### **HUD Regulation – 24 CFR 8.24**

(a) General. A recipient shall operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not –

- (1) Necessarily require a recipient to make each of its existing facilities accessible to and usable by individuals with handicaps;
- (2) Require a recipient to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. If an action would result in such an alteration or such burdens, the recipient shall take any action that would not result in such an alteration or such burdens but would nevertheless ensure that

individuals with handicaps receive the benefits and services of the program or activity.

### 3. Reasonable Accommodation

#### **HUD Regulation – 24 CFR 8.11**

Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant with handicaps or employee with handicaps, unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(c) In determining, under paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

- (1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;
- (2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and
- (3) The nature and cost of the accommodation needed.

#### **HUD Regulation – 24 CFR 8.33**

A recipient shall modify its housing policies and practices to ensure that these policies and practices do not discriminate, on the basis of handicap, against a qualified individual with handicaps. The recipient may not impose upon individuals with handicaps other policies, such as the prohibition of assistive devices, auxiliary alarms, or guides in housing facilities, that have the effect of limiting the participation of tenants with handicaps in the recipient's federally assisted housing program or activity in violation of this part. Housing policies that the recipient can demonstrate are essential to the housing program or activity will not be regarded as discriminatory within the meaning of this section if modifications to them would result in a fundamental alteration in the nature of the program or activity or undue financial and administrative burdens.

#### **HUD Regulation – 24 CFR 100.204**

Reasonable accommodation.

(a) It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

**HUD Regulation – 24 CFR 966.7 (Public Housing)**

Accommodation of persons with disabilities.

(a) For all aspects of the lease and grievance procedures, a handicapped person shall be provided reasonable accommodation to the extent necessary to provide the handicapped person with an opportunity to use and occupy the dwelling unit equal to a non-handicapped person.

(b) The PHA shall provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy.

**AHFC Policy**

AHFC provides information regarding its reasonable accommodation process to both applicant and participant families.

**4. Making A Request**

**AHFC Policy**

A person with a disability may make a reasonable accommodation request any time he or she deems it necessary. A family may request a reasonable accommodation orally or in writing. AHFC will respond to all reasonable accommodation requests in a timely manner.

Under the Act, a resident or an applicant for housing makes a reasonable accommodation request whenever he or she makes clear to the housing provider that he or she is requesting an exception, change, or adjustment to a rule, policy, practice, or service because of his or her disability. The family should explain what type of accommodation is requested and, if the need for the accommodation is not readily apparent or not known to the provider, explain the relationship between the requested accommodation and the disability. An applicant or resident is not entitled to receive a reasonable accommodation unless he or she requests one.<sup>3</sup>

**5. Qualification**

In order to qualify for a Reasonable Accommodation (see Definitions section), a person must meet the Fair Housing definition (see Definitions section) of a person with disabilities. A person who meets the Fair Housing definition of a person with disabilities for purposes of a Reasonable Accommodation **does not** automatically

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<sup>3</sup> Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations under the Fair Housing Act, May 17, 2004.

qualify as an elderly/disabled household (see the Qualify as a Family exhibit for the definition of an elderly or disabled household).

To qualify for a requested accommodation, an individual must be able to document a nexus between the accommodation and the individual's disability. AHFC may ask for this documentation when the nexus is not clear.

### **5.A Verification of Disability**

If a person meets the HUD definition of a person with disabilities (see the Qualify as a Family exhibit for this definition), AHFC does not need to re-verify his or her disability status. If AHFC does not have enough information to determine if a person meets the Social Security or Fair Housing definition of a person with disabilities, third-party verification of disability status will be required to evaluate the reasonable accommodation request.

### **5.B Types of Verifiers**

#### **AHFC Policy**

In cases where a family has ported into AHFC with a reasonable accommodation request granted by another housing authority, AHFC will review the family's documentation and determine if AHFC will grant the same accommodation.

AHFC's third-party verification form does not have to be signed by a medical professional. Any professional with first-hand knowledge of the person's disability can complete it. This could be a counselor, advocate, attorney, social worker, etc.

### **5.C Denying a Request**

#### **HUD Guidance<sup>4</sup>**

A housing provider can deny a request for a reasonable accommodation if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation. In addition, a request for a reasonable accommodation may be denied if providing the accommodation is not reasonable - i.e., if it would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the provider's operations.

#### **AHFC Policy**

1. In situations where the initial request is determined not reasonable, AHFC may attempt to discuss or offer alternate accommodations that will address the requestor's disability-related need.

<sup>4</sup> Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations under the Fair Housing Act, May 17, 2004.

2. Families may request that the AHFC 504 officer review requests denied by AHFC staff.

## 6. Request Types

### 6.A All Programs

These types of requests are common to all assisted housing programs.

#### 6.A.1. Applicant Reinstatement to Waiting List

##### **HUD Regulation – 24 CFR 982.205(c)**

Removing applicant names from the waiting list.

(2) An PHA decision to withdraw from the waiting list the name of an applicant family that includes a person with disabilities is subject to reasonable accommodation in accordance with 24 CFR part 8. If the applicant did not respond to the PHA request for information or updates because of the family member's disability, the PHA must reinstate the applicant in the family's former position on the waiting list.

#### 6.A.2. Additional Bedroom (Subsidy) for a Person with a Disability

Families that contain a family member with a disability may request an exception to the occupancy or subsidy standard. The additional subsidy or bedroom must be required to accommodate the disabled family member's disability.

#### 6.A.3. AHFC Adverse Notice

##### **HUD Regulation – 24 CFR 982.552**

(c) Authority to deny admission or terminate assistance.

(2) Consideration of circumstances. In determining whether to deny or terminate assistance because of action or failure to act by members of the family:

(iv) If the family includes a person with disabilities, the PHA decision concerning such action is subject to consideration of reasonable accommodation in accordance with part 8 of this title.

**AHFC Policy**

1. A person with a disability may request a reasonable accommodation to cure a program violation when he or she believes his or her disability is the cause.
2. AHFC may also consider an accommodation that would allow a person with a disability to participate successfully in an AHFC rental assistance program.
  - See the Termination of Assistance and Tenancy chapter for Housing Choice and Project-Based Vouchers.
  - See the Termination of Tenancy chapter for the Public, S8N Multifamily, and Unassisted Housing Programs.

**6.A.4. Communication Modification**

**HUD Regulation – 24 CFR 8.6**

Communications.

(a) The recipient shall take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public.

**AHFC Policy**

Upon a qualified request, AHFC shall provide documentation in an alternate format to accommodate a person’s disability.

**6.A.5. Durable Medical Equipment**

A person with a disability may request additional subsidy or an additional bedroom in order to provide space for required durable medical equipment (see Definitions section). AHFC will verify the presence of the required equipment at each unit inspection. AHFC may reduce the additional subsidy allotted to a family for failure to retain the required equipment.

**6.A.6. Grievance Process Participation**

**HUD Regulation – 24 CFR 966.56**

Procedures governing the hearing.

(f) Accommodation of persons with disabilities.

(1) The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

(2) If the tenant is visually impaired, any notice to the tenant which is required under this subpart must be in an accessible format.

**AHFC Policy**

A person with a disability may request a reasonable accommodation to participate fully in the Informal Review, Informal Hearing, or Grievance Hearing process. Based on the individual’s need, AHFC will arrange for an appropriate location and any required auxiliary aids.



### 6.A.7. Increased Utility Allowance

#### **HUD Regulation – 24 CFR 965.508**

Requests for relief from surcharges for excess consumption of PHA-purchased utilities, or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities, may be granted by the PHA on reasonable grounds, such as special needs of elderly, ill or disabled residents, or special factors affecting utility usage not within the control of the resident, as the PHA shall deem appropriate..

#### **HUD Regulation – 24 CFR 982.517**

(d) Use of utility allowance schedule. The PHA must use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the family unit size as determined under the PHA subsidy standards. In cases where the unit size leased exceeds the family unit size as determined under the PHA subsidy standards as a result of a reasonable accommodation, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family.

(e) Higher utility allowance as reasonable accommodation for a person with disabilities. On request from a family that includes a person with disabilities, the PHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability.

### 6.A.8. Live-In Aide

#### **HUD Regulation – 24 CFR 966.4 (Public Housing)**

A lease shall be entered into between the PHA and each tenant of a dwelling unit which shall contain the provisions described hereinafter.

(d) Tenant's right to use and occupancy.

(3)

(i) With the consent of the PHA, a foster child or a live-in aide may reside in the unit. The PHA may adopt reasonable policies concerning residence by a foster child or a live-in-aide, and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include:

(B) The PHA's obligation to make reasonable accommodation for handicapped persons.

**HUD Regulation – 24 CFR 982.316 (Housing Choice Voucher)**

Live-in aide.

(a) A family that consists of one or more elderly, near-elderly or disabled persons may request that the PHA approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability. (See §982.402(b)(6) concerning effect of live-in aide on family unit size.)

**AHFC Policy**

See the Live-In Aide exhibit.

**6.B Moving to Work Programs**

These types of requests are available for persons with a disability that are participating in the Classic, Step, or Set Aside programs.

**6.B.1. Change to Classic Designation**

A family classified as a Step Program family may request to change their designation to Classic in the following situations.

1. To enable the sole work-able adult to provide care for a family member with a disability in the unit. For consideration of this reasonable accommodation, the person requiring the care must meet HUD’s definition of a disabled person (see the Qualify as a Family exhibit).
2. If the sole work-able adult turns 62 or meets the definition of a person with a disability (see the Qualify as a Family exhibit for the definition).
3. If the sole work-able adult is not 62 and is unable to verify his/her status as a person with a disability, but believes that he/she meets the definition.

### **6.B.2. Medical or Disability Expense Deductions**

A person with a disability or a person that is participating in one of AHFC's rent reform programs (Classic, Set Aside, or Step) may request that AHFC allow medical or disability expense deductions.

1. Failure to provide the medical/disability expense deductions must result in a financial barrier<sup>5</sup> for the family.
2. Expenses must be verified and must meet the guidelines in the Allowable Medical Expenses exhibit.
3. This process does not override the required HUD calculation methodology for medical or disability expenses when included as part of the annual income determination process.

### **6.C AHFC-Owned Housing Programs**

#### **6.C.1. Assistive or Service Animal<sup>6</sup>**

##### **HUD Regulation – 24 CFR 5.303**

Exclusion for animals that assist, support, or provide service to persons with disabilities.

(a) This subpart C does not apply to animals that are used to assist, support, or provide service to persons with disabilities. Project owners and PHAs may not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support, or provide service to persons with disabilities. This exclusion applies to animals that reside in projects for the elderly or persons with disabilities, as well as to animals that visit these projects.

##### **HUD Regulation – 24 CFR 960.705**

Animals that assist, support, or provide service to persons with disabilities.

(a) This subpart G does not apply to animals that assist, support or provide service to persons with disabilities. PHAs may not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support or provide service to persons with disabilities. This exclusion applies to such animals that reside in public housing, as that term is used in §960.703, and such animals that visit these developments.

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<sup>5</sup> A financial barrier is defined as a family with a shelter burden of more than 40 percent of a family's gross or adjusted monthly income. See the Bridge Policy and Process for a definition of shelter burden.

<sup>6</sup> Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Issued as part of FHEO Notice 2020-01.

**FHEO Notice 2020-01<sup>7</sup>**

**Page 1, Paragraph 1.** This notice explains certain obligations of housing providers under the Fair Housing Act (FHA) with respect to animals that individuals with disabilities may request as reasonable accommodations. There are two types of assistance animals: (1) service animals, and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a “support animal”). Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the FHA.

The Fair Housing Act (FHA) makes it unlawful for a housing provider to refuse to make a reasonable accommodation that a person with a disability may need in order to have equal opportunity to enjoy and use a dwelling.

**1. RA Requests After the Animal is in the Unit**

**FHEO Notice 2020-01**

**Page 8, Part II.** A resident may request a reasonable accommodation either before or after acquiring the assistance animal. An accommodation also may be requested after a housing provider seeks to terminate the resident’s lease or tenancy because of the animal’s presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation. However, under the FHA, a person with a disability may make a reasonable accommodation request at any time, and the housing provider must consider the reasonable accommodation request even if the resident made the request after bringing the animal into the housing.

**2. Reasons to Possibly Deny an Animal**

**FHEO Notice 2020-01**

**Page 13, Section V.** The FHA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. A housing provider may, therefore, refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through

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<sup>7</sup> Office of Fair Housing and Equal Opportunity Notice 2020-01 issued January 28, 2020.

Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act.

- Supersedes Office of Fair Housing and Equal Opportunity (FHEO) Notice 2013-01 issued April 25, 2013. Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs.

actions the individual takes to maintain or control the animal (e.g., keeping the animal in a secure enclosure).

### 3. General Assistance Animal Rules

#### FHEO Notice 2020-01

##### Page 14, Section V.

1. Housing providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed but can, as noted, limit based on specific issues with the animal's conduct because it poses a direct threat or a fundamental alteration.
2. A housing provider may charge a tenant for damage an assistance animal causes if it is the provider's usual practice to charge for damage caused by tenants (or deduct it from the standard security deposits imposed on all tenants).
3. A person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.

### 6.C.2. Unit with Accessible Features

A family can request a unit with accessible features at any time. A family is required to certify their need for the features when a unit becomes available. Once assigned to a unit with accessible features, the family is not required to re-certify their need for the unit.

If in the future the family no longer requires the features, the family may be required to move to allow a family requiring the features to occupy the unit.

### 6.C.3. Reasonable Modification

#### HUD Regulation - 24 CFR 100.203

(a) It shall be unlawful for any person to refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period,

a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

(b) A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

#### **AHFC Policy**

1. For the Housing Choice and Project-Based Voucher Programs, the family must arrange with the unit's owner for any necessary modifications.
2. For the Public, S8N Multifamily, and Unassisted Housing Programs, a family can request that AHFC perform reasonable modifications to a unit to accommodate a person with a disability.
  - a) Depending on the extent of modification, AHFC may ask the family to accept a unit already possessing the required features.
  - b) In the Public and S8N Multifamily Housing Programs, AHFC assumes the cost of required, approved modifications.
  - c) In the Unassisted Housing Program, the family assumes the cost of required, approved modifications and may be responsible for paying a deposit to return to the unit to standard condition.

### **6.D Housing Choice Voucher Programs**

These types of requests are available under the Housing Choice Voucher Program.

#### **6.D.1. Full Shopping Period at Issuance**

##### **HUD Regulation – 24 CFR 982.303(b)**

Extensions of term.

(2) If the family needs and requests an extension of the initial voucher term as a reasonable accommodation, in accordance with part 8 of this title, to make the program accessible to a family member who is a person with disabilities, the PHA must extend the voucher term up to the term reasonably required for that purpose.

AHFC may supply applicants in shopping status with a list of known accessible units. If necessary, it may provide information and referral services to assist a family in locating an available accessible dwelling unit.

## 6.D.2. Payment Standard Exception

### **HUD Regulation – 24 CFR 8.28**

Housing certificate and housing voucher programs.

(a) In carrying out the requirements of this subpart, a recipient administering a Section 8 Existing Housing Certificate program or a housing voucher program shall:

(5) If necessary as a reasonable accommodation for a person with disabilities, approve a family request for an exception rent under §982.504(b)(2) for a regular tenancy under the Section 8 certificate program so that the program is readily accessible to and usable by persons with disabilities.

### **HUD Regulation – 24 CFR 983.2**

(c) Specific 24 CFR part 982 provisions that do not apply to PBV assistance. Except as specified in this paragraph, the following specific provisions in 24 CFR part 982 do not apply to PBV assistance under part 983.

(6) Subpart K of Part 982: subpart K does not apply, except that the following provisions apply to the PBV Program:

(i) Section 982.503 (for determination of the payment standard amount and schedule for a Fair Market Rent (FMR) area or for a designated part of an FMR area). However, provisions authorizing approval of a higher payment standard as a reasonable accommodation for a particular family that includes a person with disabilities do not apply (since the payment standard amount does not affect availability of a PBV unit for occupancy by a family or the amount paid by the family);

### **AHFC Policy**

See the Project-Based Vouchers chapter in the Housing Choice Voucher Administrative Plan.

### **HUD Regulation – 24 CFR 982.503(b)(1)**

Payment standard amount and schedule.

(v) The PHA may establish an exception payment standard of not more than 120 percent of the published FMR if required as a reasonable accommodation in accordance with 24 CFR part 8 for a family that includes a person with a disability. Any unit approved under an exception payment standard must still meet the reasonable rent requirements found at §982.507.

(vi) The PHA may establish an exception payment standard of more than 120 percent of the published FMR if required as a reasonable accommodation in accordance with 24 CFR part 8 for a family that includes a person with a disability after approval from HUD. Any unit approved under an exception payment standard must still meet the reasonable rent requirements found at §982.507.

**HUD Regulation – 24 CFR 982.505**

(d) PHA approval of higher payment standard for the family as a reasonable accommodation. If the family includes a person with disabilities and requires a payment standard above the basic range, as a reasonable accommodation for such person, in accordance with part 8 of this title, the PHA may establish a payment standard for the family of not more than 120 percent of the FMR. A PHA may establish a payment standard greater than 120 percent of the FMR by submitting a request to HUD.

**AHFC Policy**

AHFC may grant an exception to the payment standard to make the program accessible to and usable by a family member with a disability. The requesting family has an obligation to demonstrate that suitable housing specific to their disability is unavailable at the issued payment standard.

**6.D.3. Rent from a Family Member**

**HUD Regulation – 24 CFR 982.306**

PHA disapproval of owner.

(d) The PHA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the PHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. This restriction against PHA approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to PHA approval of a new tenancy with continued tenant-based assistance in the same unit.

**HUD Regulation – 24 CFR 983.251**

(a) Who may receive PBV assistance?

(4) A PHA may not approve a tenancy if the owner (including a principal or other interested party) of a unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the PHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

AHFC may grant an exception to the program regulation to make the program accessible to and usable by a family member with a disability. The requesting family has an obligation to demonstrate that suitable housing specific to their disability is unavailable in the area’s geographic jurisdiction.



#### 6.D.4. Special Housing Types

##### **HUD Regulation – 24 CFR 982.601**

(a) Special housing types.

(3) The PHA must permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8.

##### **AFHC Policy**

See the Special Programs chapter in Housing Choice Voucher Administrative Plan.

##### **HUD Regulation – 24 CFR 982.625**

(d) PHA choice to offer homeownership options.

(1) The PHA may choose to offer either or both forms of homeownership assistance under this subpart, or choose not to offer either form of assistance. However, the PHA must offer either form of homeownership assistance if necessary as a reasonable accommodation for a person with disabilities in accordance with § 982.601(b)(3).

(2) It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA will determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

##### **AFHC Policy**

See the Homeownership Program chapter in this Administrative Plan.

## 7. Definitions

### 7.A Accessible

##### **HUD Regulation – 24 CFR 8.3**

Accessible, when used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed or altered, can be approached, entered, and used by individuals with physical handicaps. The phrase accessible to and usable by is synonymous with accessible.

## 7.B Animals Commonly Kept in Households

### FHEO Notice 2020-01

If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the requestor has provided information confirming that there is a disability-related need for the animal. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

## 7.C Assistance Animal

### FHEO Notice 2020-01

Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities. There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a “support animal”). An animal that does not qualify as a service animal or other type of assistance animal is a pet for purposes of the FHA and may be treated as a pet for purposes of the lease and the housing provider’s rules and policies. A housing provider may exclude or charge a fee or deposit for pets in its discretion and subject to local law but not for service animals or other assistance animals.

## 7.D Durable Medical Equipment

Medical supplies that are:

- Able to withstand repeated use;
- Primarily and customarily used to serve a medical purpose;
- Generally not useful to a person in the absence of an illness or injury; and
- Appropriate for use in the home.

Durable medical equipment includes such items as walkers, wheelchairs, power scooters, hospital beds, and portable oxygen equipment. Durable medical equipment is also called Home Medical Equipment or Durable Medical Equipment, Prosthetics, Orthotics, and Supplies.

Durable Medical Equipment **is not**:

- Medical supplies that generally are used and then thrown away.
- Items that are not appropriate for home use such as a paraffin bath unit or oscillating bed. These items are generally used under supervision in an institutional setting.

- To be used primarily outside the home.
- For convenience rather than medical use. This includes stairway elevators, grab bars, bathtub/toilet seats, and portable potties – anything that can technically be used by people who have no medical condition.

### **7.E Fundamental Alteration**

A "fundamental alteration" is a modification that alters the essential nature of a provider's operations.

### **7.F Individual with Handicaps**

#### **HUD Regulation – 24 CFR 8.3**

Individual with handicaps<sup>8</sup> means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; 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 who participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

(a) Physical or Mental Impairment includes:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(2) Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, drug addiction, and alcoholism.

(b) Major Life Activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

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<sup>8</sup> The Fair Housing Act uses the term "handicap" instead of the term "disability." Both terms have the same legal meaning. This document uses the term "disability," which is more generally accepted.

(c) Has a Record of Such an Impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) Is Regarded as Having an Impairment means:

(1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.

### **7.G Nexus**

Nexus means an identifiable relationship or connection between two items. To show that a requested accommodation is necessary, the accommodation must have a clear link to the individual's disability.

### **7.H Reasonable Accommodation<sup>9</sup>**

A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. The Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

A housing provider may not ordinarily inquire as to the nature and severity of an individual's disability. However, in response to a request for a reasonable accommodation, a housing provider may request reliable disability-related information that:

1. is necessary to verify that the person meets the Act's definition of disability,
2. describes the needed accommodation, and
3. shows the relationship between the person's disability and the need for the requested accommodation.

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<sup>9</sup> Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations under the Fair Housing Act.

## 7.I Service Animal

### FHEO Notice 2020-01

Under the ADA, “service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.”

## 7.J Substantial Impairment

### HUD Regulation – 24 CFR 8.3

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

## 7.K Unique Animals

### FHEO Notice 2020-01

If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing<sup>10</sup>. While this guidance does not establish any type of new documentary threshold, the lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

#### **Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances ...**

Examples:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
  - Allergies prevent the person from using a dog; or
  - Without the animal, the symptoms or effects of the person’s disability will be significantly increased.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

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<sup>10</sup> FHEO Notice 2020-01 issued January 28, 2020; effective until amended, superseded, or rescinded.

**Example: A Unique Type of Support Animal**

An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator, unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform.

**Numbered Memo**

23-07 Exhibit 1-1 Reasonable Accommodations