



# Legal Minute

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## Nonprofit Housing Providers' Responsibilities to Tenants with Disabilities

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Nonprofit housing providers need to be familiar with their responsibilities to tenants with disabilities and establish sound administrative practices to ensure compliance with fair housing laws.

### What Types of Disabilities are Protected?

Federal and state laws protect persons with physical or mental impairments that substantially limit their major life activities. Protected disabilities include: blindness; deafness; mobility impairments (such as paraplegia, quadriplegia, cerebral palsy); mental illness (such as schizophrenia, depression, bipolar disorder); and developmental disabilities (such as mental retardation, learning disability).

### If My Nonprofit is Building Rental Housing, What Are My Responsibilities to Persons with Disabilities?

Landlords have four primary responsibilities to persons with disabilities:

- (1) Landlords cannot discriminate against persons with disabilities, which means, among other things, that the providers cannot deny housing to a person because she is disabled.
- (2) Most newly constructed or renovated multi-family housing must be accessible to tenants with disabilities, and some single-family housing must be accessible, depending on what type of government funds are used as well as local city accessibility ordinances. While a complete discussion of these accessibility laws is beyond the scope of this article, any nonprofit builder needs to be familiar with these rules and ensure they are in compliance before beginning a project. For more information, see the website links below.
- (3) Landlords must permit disabled tenants to make "reasonable physical modifications" necessary to make rental the premises accessible. In some instances, the housing provider must pay for these modifications, depending on: (1) whether certain types of government funds were used in the construction or renovation of the housing; and (2) whether the cost or nature of the modification would cause a financial or administrative burden.
- (4) Landlords must make "reasonable accommodations" (i.e., changes) in their rules, policies, practices, or services so that a person with a disability can have an "equal opportunity" to use and enjoy a dwelling unit.

### What are Some Examples of Reasonable Modifications for Tenants with Physical Disabilities?

- Designating a parking space close to the tenant's unit for the exclusive use of a tenant with a mobility impairment.
- Allowing a tenant to make physical modifications to the unit, such as installing grab bars in the bathroom or widening doorways for a tenant who uses a wheelchair.
- Making physical modifications to areas outside the unit, such as building a ramp when the unit of a tenant with a mobility impairment is accessible only by steps.

## What are Some Examples of Reasonable Accommodations for Tenants with Mental or Physical Disabilities?

- Making an exception to a “no pets” rule for people with disabilities who use guide dogs or other service animals (such as emotional support animals).
- Agreeing to accept rent by the 5th of the month without imposing a late charge when the tenant usually receives her social security disability check on the 2nd or 3rd of the month.
- Allowing a tenant to terminate his lease early and waiving re-letting fees when the termination is the result of the tenant’s disability (e.g., emergency hospitalization, or conditions at unit exacerbate disability).
- Helping a prospective tenant with mental retardation fill out an application form.
- Allowing a tenant to move from a one-bedroom apartment to a two-bedroom apartment to have room for her live-in personal care attendant.

## How Do Reasonable Accommodations Work?

First, a tenant who needs a reasonable accommodation to a landlord rule, policy, practice, or service needs to make the request to the landlord. The landlord can ask for documentation of the tenant’s disability if the landlord is not aware of the disability or the need for the accommodation. However, housing need not be made available to a person who is a direct threat to the health or safety of others (unless the person is disabled and a reasonable accommodation will remove the threat) or who currently uses illegal drugs. A landlord cannot charge a tenant for making an accommodation.

## Examples of Housing Discrimination Against Persons with Disabilities:

- Prohibiting a service animal pursuant to a “no pet” policy.
- Requiring individuals with disabilities to pay higher security deposits than other tenants.
- Building a new apartment complex with no accessible units.
- Refusing to rent to a person with AIDS because she has AIDS.
- Refusing to let a disabled tenant expand a doorway for his wheelchair.
- Asking an applicant whether she is disabled or asking an applicant about the severity of a disability. An exception to this is when it is necessary to determine whether an applicant qualifies for a dwelling unit available only to persons with disabilities or qualifies for a priority only available to persons with disabilities.

## Examples of Successful Fair Housing Practices:

- Require all employees to attend training on fair housing laws.
- Prominently display fair housing posters for customers.
- Advertising consistent with fair housing laws.
- Include fair housing logos in displays, pamphlets, and advertisements.
- Maintain an office log for housing problems with date and time of each incident.
- Use a standardized application and interview criteria for all applicants.
- Monitor staff knowledge of fair housing laws periodically.
- Document all requests for reasonable accommodations and modifications.

## Need Additional Information?

- For more information and additional resources related to fair housing laws, visit one of the following websites:
- Texas C-BAR: [www.texasbar.org](http://www.texasbar.org)
- Austin Tenant’s Council: [www.housing-rights.org](http://www.housing-rights.org)
- HUD Fair Housing and Equal Opportunity Division: [www.hud.gov/offices/fheo/FHLaws/index.cfm](http://www.hud.gov/offices/fheo/FHLaws/index.cfm)
- Bazelon Center: [www.bazelon.org](http://www.bazelon.org)
- Texas Department of Licensing and Regulation: [www.license.state.tx.us/ab/ab.htm](http://www.license.state.tx.us/ab/ab.htm)