

Fair Housing and Mental Disabilities

The Fair Housing Act prohibits discrimination on the basis of one's disability and the disability of anyone associated with them. This applies in the context of applying for housing, the imposition of different terms and conditions, and refusal to grant reasonable accommodations to rules, policies, and procedures. For individuals with disabilities, the Fair Housing Act provides a means for the equal use and enjoyment of a dwelling unit.

It should also be noted that under Section 504 of the Rehabilitation Act gives housing providers that receive federal funding an affirmative duty to further fair housing. If applicable, housing providers should take affirmative steps to ensure equal use and enjoyment, such as offering or notifying residents of possible accommodations.

Q: I am a housing provider and I am evicting a tenant due to complaints from neighbors regarding the tenant's conduct that violates the house rules. After serving the complaint for summary possession, the tenant is requesting a reasonable accommodation for time to seek treatment to stabilize their condition. Can I deny the request?

A: You should not automatically deny the request. At the very least, you need to engage in the interactive process if granting the accommodation request is not feasible. In most situations, if the request is reasonable, does not pose an undue administrative or financial burden, and does not fundamentally alter the nature of the program, then the request should be granted. Another consideration is that the tenant's continued presence does not pose a "direct threat."

Q: I have a tenant that has been delinquent with rent. I gave the tenant a 5-day notice to pay rent, then filed a complaint for summary possession. The tenant then requested a reasonable accommodation for time to arrange for a representative payee to make payments for the tenant. Do I need to grant the request?

A: Yes, you probably should allow the tenant time to arrange for a representative payee. This does not mean that the tenant does not have to pay you in the interim. If the tenant is delinquent in rent payment, they may also ask for a payment plan to pay back the delinquent balance. The payment plan may also require an extension of the typical payment plan period, if you have any.

Q: I rent a unit in an apartment complex. The property manager cited me for hoarding and having too many belongings in my unit. I have been given 10 days to clean up the unit or may face eviction. Can I ask the housing provider to provide chore services so that I may clean my rental unit?

A: Generally, a request to a housing provider for chore services would be denied. For most housing providers, granting a request for chore services would likely be a fundamental alteration of the provider's operations. Most housing providers are in the business of providing housing, not chore services. The exception would be if the housing provider does provide chore services to residents, then it would be reasonable.

An alternative, and more appropriate, reasonable accommodation request would be for an extension of the 10-day period to remedy the problem. This would allow the disabled resident more time to arrange for chore services or to clean the unit themselves.