



Disability Law Center's Self-Advocacy Materials

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Housing

This document is designed for people with disabilities.

The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

<https://dlc-ma.org>



Housing and Reasonable Accommodation

You Will Learn About:

- **Reasonable Accommodation and Reasonable Modification**
- **Discrimination Based on Disability in Housing**
- **Evictions**
- **Other Resources**

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

Reasonable Accommodation and Reasonable Modification

What Is A Reasonable Accommodation?

A **reasonable accommodation** is a change in a rule, policy, practice or service that is necessary to give a person with a disability an equal opportunity to use and enjoy a dwelling. Housing providers are required to provide reasonable accommodations for individuals with disabilities.

- Reasonable accommodation requests are decided on a case-by-case basis.
- Landlords usually have to pay the cost of a reasonable accommodation.

There is no single list of things that are reasonable accommodations, but there are many **examples**. These include waiving a “no pet policy” to allow for a service animal; allowing rent to be paid a couple of days late for someone who receives benefits after the first of the month; moving a person’s parking space to a space which is closer to the entrance; not using certain chemicals to clean common areas; giving a person with a hoarding disorder a chance to get treatment and providing time to make their apartment comply with the terms of their lease; allowing live-in aides; waiving a requirement for references as part of the application process for someone who has lived in a facility or community residence; permitting a tenant to terminate a lease early without penalty if they have a disability-related need to move to a more appropriate apartment.

What Is A Reasonable Modification?

A **reasonable modification** is a physical change to a building or unit that a person with a disability needs to be able to have access to the entire property. This may include ramping an entrance; lowering cabinets; installing visual alarms; using raised numbers and letters; installing grab bars. Usually, a landlord only has to give permission for the modification and the tenant has to pay for it. However, if your building has 10 or more units or you live in public or subsidized housing, your landlord may be responsible for paying for the modification.

How Do I Get A Reasonable Accommodation If I Need One?

- **You will need to make a request.** If you do not make a request, your landlord does not need to provide you with an accommodation. **Your request can come from someone else**, like a family member or service provider.
- **Make the request in writing, date it, and keep a copy.** Your landlord may have special forms that you can use to do this. If you do make your request orally, follow it up with a letter confirming that you made the request, and keep a copy.
- **You will probably need to get medical support.** Your landlord can ask you for limited medical support for your request (indicating that you have a disability-related need for the accommodation you have requested). You may want to get this first and submit it with your request for the accommodation to save time. If your disability and need for the accommodation are obvious, then you do not need to provide medical support. For example, you use a wheelchair and need a ramp at an entrance with two steps.
- **Be prepared to discuss your request with your landlord.** This is called the “interactive process.” The purpose of the interactive process is to determine what accommodation the landlord will ultimately provide.

- **Landlords do not need to provide the exact accommodation you have asked for.** They do, however, need to provide an accommodation that is **effective**. That means one that gives you an equal opportunity to use and enjoy your dwelling.

Can My Landlord Refuse My Request?

Landlords do not have to provide accommodations which amount to an **undue financial and administrative burden**. This is decided on a case-by-case basis. For example, a landlord would most likely not have to install an elevator if the building lacked one.

Landlords also do not have to provide accommodations that would result in a **fundamental alteration** in the nature of the service or activity provided. For example, it would be a fundamental alteration to ask your landlord to do grocery shopping for you because you cannot leave your apartment.

Landlords also do not have to provide an accommodation that would pose a **significant health or safety risk to others**. So, landlords do not need to tolerate illegal activity or activity that interferes with the rights of other tenants. But they may need to provide you a reasonable accommodation if you need time to access services that will help you regulate your conduct.

Discrimination Based On Disability in Housing

What Laws Apply To Housing Discrimination Based On Disability?

- Federal Fair Housing Amendments Act (FHAA) (**unless** building has 4 or fewer units **and** is owner-occupied)
- Massachusetts General Laws chapter 151B (**unless** building has 2 or fewer units **and** is owner-occupied)
- Section 504 of the Rehabilitation Act (if the landlord receives federal funds)
- Americans with Disabilities Act (ADA) Title II (public housing authorities) and Title III (shelters; real estate agents, SROs, community residences)

These laws prohibit housing providers from discriminating in **all housing-related decisions they make**. This includes rental, leasing and sales decisions; treating people with disabilities differently (for example, charging higher rent or having different lease terms); or disability-based harassment. Also, refusing to provide a reasonable accommodation or not responding to a request for reasonable accommodation may be illegal.

- **Your landlord cannot raise your rent or try to evict you for requesting a reasonable accommodation.**

Who is Protected?

An **individual with a disability** is protected from housing discrimination based on disability. This means a person with a **physical or mental impairment** that causes a **substantial limitation** of one or more **major life activities**.

'Major life activities' is a **very broad term**. It includes, but is not limited to, activities such as seeing, hearing, learning, breathing, working, walking, caring for oneself, interacting with others and performing manual tasks, as well as the operation of major bodily functions, such as the immune system, normal cell growth and digestive, neurological and respiratory functions.

- You are **not** covered if you are currently using illegal drugs. But, if you are in recovery from past drug addiction than you may be covered if you can show that you have not used illegal drugs recently.
- You are also not covered if your conduct poses a threat to other people's health or safety or causes substantial physical damage to the property.
- These issues are decided on a case-by-case basis.

Does A Person Ever Have To Disclose That They Have A Disability?

NO. Disclosure is only required if a person needs a reasonable accommodation.

- Housing providers cannot ask you if you have a disability, except in very limited circumstances such as when the specific type of housing is for people with disabilities.

Evictions

What Should I Do If I Receive An Eviction Notice?

If you receive a notice of eviction (usually called a Notice to Quit), you must take action quickly. Your landlord cannot evict you without first going to court. But, depending on the reason why your landlord wants to evict you, there may not be much time before you have to appear in court.

- You may be able to request a **reasonable accommodation** asking your landlord not to evict you if there is a connection between your disability and the reason for the eviction.
- You should make your reasonable accommodation request as soon as possible.
- If there is no viable reasonable accommodation, you can still fight the eviction in court by filing defenses and/or counterclaims.
- **Do not wait until you receive notice of a court date - Get legal advice as soon as possible.**

Other Resources

Where Do You Go If You Still Need Legal Help?

If you need legal representation or advice on a request for reasonable accommodation or modification, please call the Disability Law Center (DLC) at 1-800 872-9992 or fill out our online intake form at <https://www.dlc-ma.org/ask-for-help/>.

Unfortunately, we cannot help everyone who calls us. If DLC cannot provide you with either legal representation or advice, we may refer you to:

- A local fair housing program;
- The local legal service program (see <https://www.masslegalservices.org/FindLegalAid/>);
- Your local bar association referral service; or
- The National Lawyers Guild MA Chapter Lawyer Referral Service (<http://www.nlgmasslawyers.org/>).

Also, you can get information on reasonable accommodations and reasonable modifications from the U.S. Department of Housing and Urban Development:

https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications

If you would like to file a fair housing complaint against a housing provider that has discriminated against you or refused to allow a reasonable accommodation, you should try to consult with an attorney before filing the complaint. There are administrative agencies where you can file a housing complaint, even if you do not have an attorney representing you. You may file a discrimination complaint under both state and federal law with the Massachusetts Commission Against Discrimination (MCAD). (See <https://www.mass.gov/how-to/how-to-file-a-complaint-of-discrimination>). You may also file a discrimination complaint under federal law with the U.S. Department of Housing and Urban Development (HUD). (See <https://www.hud.gov/fairhousing/fileacomplaint%20>). You also may have the right to file a lawsuit in state court, including housing court, or in federal court. Please consult with an attorney regarding deadlines for filing your complaint.