

**REASONABLE ACCOMMODATION
GUIDELINES AND POLICY**

**WILKES-BARRE
HOUSING AUTHORITY**

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REASONABLE ACCOMMODATION GUIDELINES AND POLICY

The following Reasonable Accommodation Policy shall be in effect for assessing requests for reasonable accommodations of public housing and Housing Choice Voucher (HCV) applicants, residents, and participants with disabilities in programs administered by the Wilkes-Barre Housing Authority (WBHA). The Policy is not intended to be an exhaustive compilation of rules governing assessment by WBHA of requests for reasonable accommodations. If any conflicts exist or arise between this Policy and federal legal requirements, WBHA shall comply with its legal obligations notwithstanding this Policy.

I. INTRODUCTION

The WBHA is committed to ensuring that its policies and procedures do not deny individuals with disabilities the opportunity to participate in, or benefit from, nor otherwise discriminate against individuals with disabilities, on the basis of disability, in connection with the operations of WBHA's programs, services, and activities.

Therefore, if an individual with a disability requires an accommodation such as an accessible feature or modification to a WBHA policy, WBHA will provide such accommodation unless doing so would result in a fundamental alteration in the nature of the program, or an undue financial and administrative burden. In such a case, the WBHA will engage in the interactive process and will try to make another accommodation that would not result in a financial or administrative burden.

A reasonable accommodation is a change, modification, alteration, or adaptation in policy, procedure, practice, program, or facility that provides a qualified individual with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing) or activity.

II. LEGAL AUTHORITY

It is the policy of the WBHA to fully comply with all federal, state, and local nondiscrimination laws including, but not limited to the Americans with Disabilities Act (ADA), the United States Fair Housing Act, (Fair Housing Act), Title VI of the Civil Rights act of 1964 (Civil Rights Act), Section 504 of the United States Rehabilitation Act of 1973 (Section 504), and the Pennsylvania Human Relations Act (PA Human Relations Act).

III. NOTICE AND POSTING

The WBHA will post a copy of this Reasonable Accommodation Policy in the Central Administrative Office, on its website, and in the management office of each public housing development. In addition, individuals may obtain a copy of this Reasonable Accommodation Policy, upon request, from the WBHA's Executive Director.

IV. REASONABLE ACCOMMODATION

A qualified individual with a disability may request a reasonable accommodation at any time during the application process, residency in public housing, or participation in the HCV programs of the WBHA. The individual, WBHA staff, or any person identified by the individual, may submit their reasonable accommodation request(s) in writing, orally, or by any other equally effective means of communication. However, WBHA will ensure that all reasonable accommodation requests will be reduced to writing. If needed, as a reasonable accommodation, WBHA will assist the individual in completing the "Request for Reasonable Accommodation"

(“Request Form”), attached hereto. WBHA will keep any information related to reasonable accommodations in a confidential part of the applicant/tenant file.

Reasonable accommodation methods or actions that may be appropriate for a particular program and individual may be found to be inappropriate for another program or individual. The decision to approve or deny a request for a reasonable accommodation is made on a case-by-case basis and takes into consideration the disability and the needs of the individual as well as the nature of the program or activity in which the individual seeks to participate.

V. APPLICATION OF REASONABLE ACCOMMODATION POLICY

The Reasonable Accommodation Policy applies to qualified individuals in the following programs provided by the WBHA:

- A. Applicants of Public Housing;
- B. Applicants of the Housing Choice Voucher program;
- C. Residents of Public Housing developments;
- D. Participants of the Housing Choice Voucher program

VI. DEFINITION OF A PERSON WITH A DISABILITY

A person with a disability means an individual who has a physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. Major life activities include, but are not limited to caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, working, thinking, eating, standing, lifting, concentrating, communicating, and sleeping.

EXCEPTIONS: The term disability does not include current use or current addiction to illegal drugs. “Current” means:

- (1) It occurred recently enough to justify a reasonable person to believe that the use is current; or
- (2) That continuing use is a real and ongoing problem.

Where there is evidence of prior use of illegal drugs and the applicant/resident contends he/she is not engaged in current use, the applicant/resident must provide evidence of recovery and be willing and able to be lease compliant. Examples of “evidence of recovery” include, but are not limited to proof of completion of a supervised drug or alcohol rehabilitation program, other proof of a successful rehabilitation, and/or currently participating in a supervised drug or alcohol rehabilitation program. An individual is not eligible for a reasonable accommodation if:

- A. He/she poses a direct threat to the health or safety of other individuals, and this cannot be mitigated by a reasonable accommodation, or he/she would cause substantial damage to property. WBHA will make an assessment based on reliable objective evidence (including, but not limited to current conduct, or a recent history of overt acts, as well as the nature, duration, and severity of the risk of harm or damage, and the

probability that harm or damage will actually occur) to determine the likelihood of causing a direct threat to the health or safety of other individuals or causing substantial damage to property.

- B. He/she is not otherwise qualified for the WBHA program, and this cannot be mitigated by a reasonable accommodation.

Marijuana used medicinally or otherwise is an illegal substance under Federal law and is not permissible under the Reasonable Accommodation Policy.

Reasonable accommodations will be made up to the point of undue financial or administrative burden or requiring fundamental changes to the program in accordance with the provisions of Section VIII of this policy. Reasonable modifications will be made up to the point of structural infeasibility, or undue financial or administrative burden.

VII. EXAMPLES OF REASONABLE ACCOMMODATIONS

Examples of reasonable accommodations may include, but are not limited to:

- A. Making a unit, part of a unit, or public and common use element accessible for the head of household or a household member with a disability who is on the lease;
- B. Permitting a family to have a service or assistance animal necessary to assist a family member with a disability;
- C. Allowing a live-in aide to reside with an elderly, near elderly, or disabled resident in an appropriately sized WBHA unit;
- D. Transferring a resident to a larger size unit to provide a separate bedroom for a person with a disability;
- E. Transferring a resident to a unit on a lower level or a unit that is completely on one level;
- F. Making documents available in alternative formats;
- G. Providing qualified sign language interpreters for applicant or resident meetings with WBHA staff; or at resident meetings;
- H. Installing strobe type flashing lights and other such equipment for a family member with a hearing impairment;
- I. Permitting an outside agency or family member to assist a resident or an applicant in meeting screening criteria or meeting essential lease obligations;
- J. Permitting requests for extensions of Housing Choice Vouchers if there is difficulty in locating a unit with suitable accessible features or otherwise appropriate for the family; and
- K. As a reasonable accommodation for a family member with a disability, approving a request for an exception from payment standard amounts under the HCV program in accordance with 24 C.F.R. §§ 8.28 and 982.505(b)(2).

VIII. PROCESSING OF REASONABLE ACCOMMODATION REQUESTS

The WBHA will provide the Request Form to all applicants, residents, or individuals who request a reasonable accommodation. The Request Form includes various forms of reasonable accommodations as well as the general principles of reasonable accommodation.

Individuals may submit their reasonable accommodation request as stated in Section IV Reasonable Accommodation.

Upon receiving the request, housing management will determine if all information and documents necessary to respond to the request have been received. If additional information or documentation is required, a written request will be issued to the resident. The written request will include a reply date for submission of the outstanding information or documentation, and any repercussions if it isn't submitted on time.

As part of the Request Packet, WBHA will request documentation supporting the need for an accommodation. Staff will verify an individual's disability only to the extent necessary to ensure that those who request an accommodation have a disability-based need for it. Individuals requesting a reasonable accommodation will not be required to disclose the specific disability(ies) or the nature or extent of any disability or provide confidential records for verification.

If WBHA approves the request, the individual will be notified in writing and will be informed of the projected date for implementation. WBHA will pay moving expenses for a resident with a disability who needs a transfer for a disability-related reason as part of the reasonable accommodation.

If WBHA denies the request, the individual will be notified in writing with reasons regarding the decision. Requested accommodations will not be approved if one of the following would occur as a result:

- A violation of state, federal, or other applicable law;
- A fundamental alteration in the nature of the WBHA housing programs;
- An undue financial and administrative burden on WBHA;
- A structurally infeasible alteration; or
- An alteration requiring the removal or alteration of a load-bearing structural member.

These are examples of reasons for denial, but this is not an inclusive list. There may be other reasons that warrant denial of a Reasonable Accommodation request. Each request will be reviewed on a case-by-case basis.

The WBHA will approve or deny the request within fourteen (14) calendar days after receiving all needed information and documentation from the applicant/resident and their identified provider. All decisions to approve or deny reasonable accommodations will be communicated in writing or if required, in an alternative format. Exceptions to the fourteen (14) calendar day period for notification of WBHA's decision on the request will be provided to the resident in writing setting forth the reasons for the delay.

The WBHA will post a copy of this Reasonable Accommodation Policy in the Central Administrative Office, on its website, and in the management office of each public housing development. In addition, individuals may obtain a copy of this Reasonable Accommodation Policy, upon request, from the WBHA's Executive Director.

IX. COMMON TYPES OF REASONABLE ACCOMMODATION REQUESTS

A. ANIMALS:

(i). **Introduction.** Service animals are permitted in all areas of a facility that members of the public are allowed to go and do not require a reasonable accommodation. However, a reasonable accommodation request must be made and approved in order for service animals or any other type of assistance animal to be granted approval to live in a housing unit. The reasonable accommodation request process outlined in this policy does not apply to visiting service animals. For purposes of this policy, the reasonable accommodation request process for service or other assistance animals in housing units are addressed under Section (iii), below.

(ii). **Service Animals.** For purposes of this policy, a service animal is one type of an assistance animal. Under the ADA, a **service animal** is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. The regulations specify that “the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purpose of this definition.” Thus, trained dogs are the only species of animals that may qualify as service animals and emotional support animals are expressly precluded from qualifying as service animals under the ADA. An individual’s use of a service animal must not be handled as a request for reasonable accommodation **unless** the support animal will live in a housing unit. Rather, an animal need only meet the definition of “service animal” to be allowed into a covered facility.

To determine if an animal is a service animal, WBHA shall not ask about the nature or extent of a person’s disability but may make two inquiries to determine whether an animal qualifies as a service animal. The WBHA may ask:

- (1) Is this a service animal that is required because of a disability? and
- (2) What work or tasks has the animal been trained to perform?

WBHA shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

WBHA will not make the two permissible inquiries set out above when it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability. The animal may not be denied access to the facility unless:

- (1) The animal is out of control and its handler does not take effective action to control it;
- (2) The animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination); or

- (3) The animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices, and procedures. A determination that a service animal poses a direct threat must be based on an individualized assessment of the specific service animal's conduct – not on fears, stereotypes, or generalizations. The service animal must be permitted to accompany the individual with a disability to all areas of the facility where members of the public are normally allowed to go.

(iii). Assistance Animals. An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Such animals may qualify as a permitted Reasonable Accommodation since an individual with a disability may have the right to have an animal in his or her home if the animal qualifies as a Reasonable Accommodation that is necessary to afford the individual equal opportunity to use and enjoy a dwelling, as long as the use of the animal does not pose a direct threat to the health and safety of others or would result in substantial physical damage to the property.

Residents with assistance animals **are** required to comply with any and all applicable federal, state, or local law or ordinance regarding domestic animals that may apply. This includes proof of inoculation, licensing, and any other regulations relating to the safety and control of animals to prevent injury to others.

Assistance animals may be any type of animal or any breed, size, or weight. A reasonable accommodation may involve more than one assistance animal, under certain circumstances.

(iv). Reasonable Accommodation Request Process for Assistance Animals. A reasonable accommodation request must be made and approved prior to any assistance animal(s) (including service animals, emotional support animals, or companion animals) being allowed in non-public areas of WBHA facilities, including housing units. In addressing reasonable accommodation requests for permission to have assistance animals in non-public areas of WBHA facilities, the WBHA is required to adhere to ADA and FHA guidelines. Assistance animals **are** subject to the Reasonable Accommodation provisions of the ADA and FHA but are not subject to the provisions of WBHA's Pet Policy, including but not limited to licensing, certification, training, breed, size, or weight limitations, and pet deposits.

When presented with a request for an Assistance Animal, WBHA will ask:

- (1) Does the person seeking to use and live with the animal have a disability? and
- (2) Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?

If the answer to question (1) **or** (2) is “no,”, then the request may be denied. If the answers to questions (1) **and** (2) are “yes,”, WBHA is required to modify any rule to the contrary so as “to permit a person with a disability to live with and use an assistance animal(s) in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider’s services.”

The request may also be denied if:

- The specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another Reasonable Accommodation.
- The specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another Reasonable Accommodation. A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal’s actual conduct – **not** on mere speculation or fear about the types of harm or damage an animal may cause and **not** on evidence about harm or damage that other animals have caused. Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals.

(v). Assistance Animal Care and Supervision.

- The resident or handler of the assistance animal is responsible for the care and supervision of the animal.
- The resident or handler of the assistance animal must retain full control of the assistance animal at all times. This generally means that while the animal is in common areas, it is on a leash or other instrument of control, in a carrier, or otherwise in the direct control of the animal’s owner or handler.
- When in the presence of others, the assistance animal is expected to be well behaved.
- The resident or handler of the assistance animal is responsible for the proper disposal of animal waste.
- The resident or handler of the assistance animal may not allow the assistance animal to defecate on any property, public or private, unless the resident or handlers of the assistance animal immediately removes the waste and appropriately cleans or sanitizes the area where animal waste was deposited.
- The resident or handler of the assistance animal must always carry equipment and supplies sufficient to clean up: the animal’s feces whenever the assistance animal is in the common areas or outside of the resident’s unit; and the animal’s urine whenever the animal is in the common areas or otherwise in a building operated by the WBHA.
- The resident or handler of the assistance animal must properly dispose of waste and litter caused by or due to the animal.

B. EXTRA BEDROOM/LIVE-IN AIDE

The most common reason why applicants/residents request an additional bedroom is if they have a verified and necessary 24-hour live-in aide as a part of their household. Occasional, intermittent, multiple, or rotating caregivers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances.

Another common reason for a request for an extra bedroom is to be able to store medically-approved equipment. In these cases, the requestor must provide a letter from a knowledgeable professional supporting their need for the equipment.

There are situations in which a person with a disability may require live-in assistance and has a family member who is income-eligible to live in the unit and can fulfill the need. If applicable, the individual with the disability should make a Reasonable Accommodation request to add the individual as a family member to the lease because as a resident, the necessary care could be provided at sporadic times as needed or for longer times than a non-family member would provide, etc.

A family that consists of one or more elderly, near elderly, or disabled persons may request that the WBHA 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 WBHA must approve a live-in aide if needed as a Reasonable Accommodation to make the program accessible to and usable by a family member with a disability. While a live-in aide is an entitlement, the issue for determining approval is reliant upon the applicant/resident to document the need for a live-in aide.

The Federal definition of a live-in aide is a person who resides with one or more elderly persons, near elderly persons or persons with disabilities and who is: (1) determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not be living in the unit except to provide the necessary supportive services. It should be noted that the definition applies to the specific person. A live-in aide may never be considered a dependent. The live-in aide qualifies for occupancy only as long as the disabled resident requires the aide's services and remains a tenant. The live-in aide may not qualify for continuing occupancy as a remaining family member, and under no circumstances should a live-in aide be converted to a household member.

Family members of the live-in aide may, subject to any limitations imposed by any applicable federal, state and/or local law and/or ordinance, reside in the unit only if they are the spouse of the aide or children of the aide under the age of 18 unless they are a full-time student. A bedroom is only provided for the aide – not for a child or spouse of the aide. Family members of the aide may not qualify for continuing occupancy as a remaining family member, and under no circumstances should a live-in aide or their family members be converted to a household member.

Live-in aides and their family members aged 18 or over are subject to screening in the same manner as applicants/residents are screened, except for credit and rent-payment history. WBHA may disapprove such a person if he/she has: (1) committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program; (2) committed drug-related criminal activity or violent criminal

activity¹; (3) the person is subject to a lifetime registration requirement under a state sex offender registration program; or (4) currently owes rent or other amounts to WBHA or to another public housing agency. Consequently, WBHA may not approve an unidentified live-in aide, nor a larger unit than the family qualifies for under WBHA's subsidy standards for an unidentified live-in aide.

The live-in aide must be listed by name on the lease as a live-in aide and shall not violate any provisions of the lease. If the individual with a disability is an HCV participant, the WBHA shall list the live-in aide on the HAP Contract. HCV participants must also obtain their landlord's approval for a live-in aide prior to the live-in aide occupying the premises.

X. GRIEVANCE PROCESS

If the requestor receives a denial and disagrees with a WBHA decision made under the terms and conditions of this policy, they may resubmit their request with additional information which they believe would aid in the decision-making process. In addition, they may request an informal hearing. Requests for informal hearing must be made within ten (10) business days of the date of denial and must be submitted to:

Executive Director
Wilkes-Barre Housing Authority
50 Lincoln Plaza
Wilkes-Barre, PA 18702
Telephone number: (570) 825-6657

A requestor may also, at any time, exercise their rights to appeal WBHA's decision through the local U.S. Department of Housing and Urban Development (HUD) office.

Individuals may contact the local HUD office at:

US Department of Housing and Urban Development
The Strawbridge Building, 801 Market Street, 12th Floor
Philadelphia, PA 19107
(215) 656-0500
TTY: (800) 877-8339

¹ This policy will be consistent with the U.S. Department of Housing and Urban Development's 2016 Criminal History Policy.

APPENDIX A

For Office Use Only

Manager's Agreement _____

Administrative Agreement _____

Initial

Date

Initial

Date

**Wilkes-Barre Housing Authority
REQUEST FOR REASONABLE ACCOMMODATION**

Please fill out the information below regarding the individual who needs the accommodation(s). It is important for you to provide as much detail as possible in order for the Wilkes-Barre Housing Authority (WBHA) to best evaluate this request.

NOTE: This form is to be completed and signed by the Head of Household on behalf of the Household Member needing the accommodation(s). Please complete a separate "Request for Reasonable Accommodation" form for each Household Member requiring an accommodation(s). If the disabled Household Member who needs the accommodation(s) is **18 years of age or older**, he or she **AND** the Head of Household must sign this form.

PLEASE PRINT CLEARLY

Head of Household: _____
Household Member Who Needs an Accommodation(s): _____
Relationship to Head of Household (e.g. son, daughter, parent): _____
Address: _____ Phone: (____) _____

DEFINITION OF DISABILITY AS IT RELATES TO REASONABLE ACCOMMODATION(S)

The Fair Housing Act defines a person with a disability to include any person who has a physical or mental impairment that **substantially limits** (i.e. "significant" or "to a large extent") one or more **major life activities** (i.e. those activities that are of central importance to daily life such as seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working.)

1. The above Household Member meets the **DEFINITION OF DISABILITY AS IT RELATES TO REASONABLE ACCOMMODATION(S)** as listed above.

Yes No

2. As a result of this disability, I am requesting the following reasonable accommodation(s) from the WBHA for the disabled Household Member listed on Page 1. **(Please check one or more boxes below):**

a) Special unit features, b) physical modifications to common areas, or c) if a resident, a transfer to another unit that meets my needs. **Please provide details.** (Attach additional pages, if necessary.)

A change in the following rule, policy or procedure. (Note that a change in **HOW** to meet the requirements of the lease may be requested; however, the lease's requirements must still be met.) **Please specify the necessary change.** (Attach additional pages if necessary.)

3. The disabled Household Member needs this reasonable accommodation(s) because: (Attach additional pages, if necessary.) (If the accommodation requested is equipment-related, provide a list of ALL needed equipment.)

4. There must be an **identifiable relationship** between the requested accommodation and the individual’s disability. Please explain how this accommodation will assist the disabled Household Member with one or more major life activities (i.e. those activities that are of central importance to daily life such as seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self, learning , speaking, or working.) **(Please do not disclose the type of disability.)**

5. To get to my appointments, I **mostly** rely on (please check one.):

- My Car WBHA Transportation Bus Taxi Shared Ride Program Ride Walk Online

AUTHORIZATION

I/We authorize the WBHA to verify that the above referenced Household Member has a disability and I/we need the reasonable accommodation(s) requested. To verify this information, the WBHA may contact the below-named physician, psychiatrist, licensed psychologist, licensed nurse practitioner, licensed social work, rehabilitation professional, or non-medical service agency whose function is to provide services to the disabled.

Name of Provider

Field of Practice

Agency/Clinic/Facility

Street

City

State

Zip Code

(_____)_____

(_____)_____

Phone

Fax

I/We understand that the information obtained by the WBHA will be kept completely confidential and used solely to make an evaluation and determination on this reasonable accommodation(s) request.

X

Signature of Head of Household

Date

X

Signature of Household Member needing the accommodation(s) (only if 18 years old or older)

Date

Please return this form as soon as possible so that the WBHA may make a determination on this request.

ACKNOWLEDGEMENT OF RECEIPT OF POLICY

**PLEASE RETURN THIS SIGNED PAGE TO
YOUR BUILDING MANAGER WITHIN FIVE (5)
BUSINESS DAYS OF RECEIVING THIS POLICY.**

I ACKNOWLEDGE THAT I HAVE BEEN GIVEN A COPY OF THE REASONABLE
ACCOMMODATION GUIDELINES AND POLICY DATED 6/20/2023.

Head of Household

Date

Co-Head of Household

Date

Household Member over 18

Date