



Housing Rights of Individuals with Disabilities in Wyoming



This pamphlet is designed to assist the general public. This pamphlet is not intended as a comprehensive overview of the law governing the housing rights of individuals with disabilities. It is not intended to constitute legal advice. For legal advice regarding housing rights, you should contact an attorney. If after reading this pamphlet you believe your housing rights have been violated, please contact Protection & Advocacy System, Inc. (“P&A”) for further assistance. In addition, the Wyoming State Bar Association operates a lawyer referral service. For lawyer referrals, please contact the Wyoming State Bar office at (307) 632-9061.

BASIC QUESTIONS AND ANSWERS

Q. What federal laws apply to public housing?

A. Public or subsidized housing is covered by two federal anti-discrimination laws:

- The Fair Housing Act (“FHA”), and
- Section 504 of the Rehabilitation Act (“Section 504”)

Both the FHA and Section 504 place responsibilities on providers of public or government-subsidized housing. These laws attempt to ensure that tenants with disabilities are free from discrimination based on generalizations, stereotypes, or biases. Discrimination under the FHA includes “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [a person with a disability] an equal opportunity to use and enjoy a dwelling.”

Q. What is a disability?

A. The U.S. Congress has estimated that over 50 million Americans living in the community have a “disability” as defined by federal civil rights laws. An individual’s “disability” must fall under the law’s definition in order for an individual to be protected. Under the federal FHA, an individual has a “disability” if he or she:

- Has a physical or mental impairment,
- **OR** a record of such impairment,
- **OR** is regarded as having a physical or mental impairment,
- That substantially limits one or more major life activities.

Q. What is a “physical or mental impairment”?

A. A physical or mental impairment can include any medically-documented physical or mental limitation. Individuals who use wheelchairs, individuals with blindness or deafness, and individuals with cognitive impairments can all be included under this definition. Other qualifying disabilities include cerebral palsy, cancer, physical/orthopedic impairments, and epilepsy. The term “disability” does not include current illegal drug or alcohol abuse. However, individuals in recovery are covered under the law.

NOTE: This definition does not apply to every federal law or program affecting individuals with disabilities. Laws and programs using different definitions include eligibility for Social Security benefit programs and eligibility for special education services under the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”).

Q. What is a “major life activity”?

A. Any activity that is of central importance to the daily life of most individuals. Examples include working, walking, seeing, reading, caring for oneself, performing manual tasks, eating, sleeping, learning, breathing, dressing, and reproduction. A particular task related to an individual’s employment will usually not be considered a “major life activity.”

Q. What does “substantially limit” mean?

A. The impairment must severely limit “the major life activity.” Minor limitations are not enough to qualify an individual.

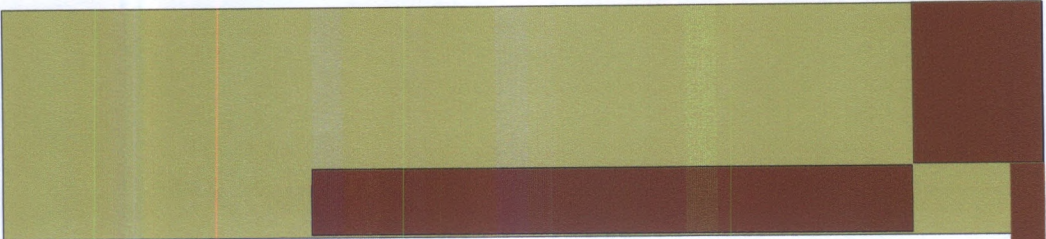
NOTE: The law protects an individual who suffers discrimination because someone “regards” him or her as having a disability even if the individual does not have an actual disability as defined by law.

Q. What actions/inactions are prohibited by the FHA?

A. The FHA prohibits discrimination against individuals with disabilities in the sale, rental, management, or administration of housing.

Under the FHA, it is illegal:

- To refuse to sell or rent housing to an individual because of the individual’s disability;
- To refuse to sell or rent to an individual, with or without a disability, because someone else with a disability will be living in the dwelling or apartment;

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- To refuse to sell or rent because an individual, with or without a disability, is associated with someone who has a disability;
 - To deny a dwelling altogether or making housing unavailable to an individual with a disability; or
 - To set different terms, conditions, or privileges for sale or rental of a dwelling solely because an individual has a disability.

Q. What “housing” does the FHA cover?

A. Private residential housing (homes and apartments), including government-subsidized programs or public housing are covered. Homeless shelters, hospices, nursing homes, and other temporary living quarters are also covered.

Q. What “housing” is not covered under the FHA?

A. Hotels and motels are not covered by the FHA. However, hotels and motels are subject to the accessibility requirements for “public accommodations” under the Americans with Disabilities Amendments Act of 2008 (commonly referred to as “ADA”). In addition, owner-occupied buildings with four or fewer units are not covered by the FHA.

Q. What must housing providers do to prevent discrimination and exclusion of individuals with disabilities?

A. Discrimination and exclusion exist in many forms. The FHA recognizes that physical barriers or blanket policies and practices may be just as discriminatory as hanging a sign that reads “No Disabled Can Apply.” Housing providers cannot threaten, coerce, retaliate, or interfere with anyone exercising a fair housing right or assisting others who exercise that right. The FHA requires housing providers and

landlords to grant reasonable accommodations and modifications to allow individuals with disabilities the equal opportunity to use and enjoy a dwelling or common area. An individual always has the right to refuse an accommodation or “help” if he or she does not want or need it.

Q. What is a reasonable accommodation or modification?

A. A reasonable accommodation may consist of a change in a rule, policy, practice, or service that may be necessary to allow an individual with a disability the equal opportunity to use and enjoy a dwelling or any of a development’s public areas. A landlord that waives a “no pets” policy so that an individual with a disability may be assisted by a service animal or assigns an accessible parking space to a tenant with a mobility impairment that is closer to his/her unit would be permissible reasonable accommodations under the law.

A reasonable modification may consist of a removal of a physical barrier or installation of a device that allows an individual with a disability to overcome a barrier preventing access. Modifications can be made to the inside or outside of a unit or to the common areas. For example, the installation of grab bars in a bathroom so that it may be used by individuals in wheelchairs is a permissible modification. The installation of flashing doorbells, lower counters, ramps, and wider doorways are other examples of physical modifications that can be made to the dwelling unit or common areas.

Accommodations and modifications must be both reasonable and necessary. There must be a “nexus” or connection between the disability, the requested change, and the ability to use or enjoy housing. Under the FHA, the tenant is required to pay for the cost of the modification and the landlord is required to pay for the cost of the



accommodation. If reasonable, the tenant may be required to restore the unit to its original condition upon moving out.

Q. When is an accommodation or modification “reasonable”?

A. An accommodation or modification is “reasonable” as long as it does not interfere with the adjacent tenant’s enjoyment of the property and does not create an undue financial or administrative burden on the landlord. Furthermore, an accommodation or modification cannot fundamentally alter the housing. The FHA does not limit the number of accommodations an individual may request. Each request is evaluated on a case-by-case basis.

An undue burden is when a housing provider cannot reasonably afford to provide or pay for a requested modification. Whether a housing provider must provide or allow the installation of a modification will depend on a) the cost of the modification, b) the financial resources of the provider, c) the benefit to the tenant, and d) the availability of equally effective less expensive alternatives.

A fundamental alteration is when a proposed accommodation, such as a change in rules, would be so fundamental that it would substantially impair the housing provider’s goals or business purposes. The requested accommodation cannot alter the essential nature of the provider’s operations. An example of a fundamental alteration would be when a tenant requests to not pay rent or requests a landlord to provide counseling services or medical assistance.

Q. How should one request a reasonable accommodation or modification?

A. A tenant should obtain a letter from his/her doctor or qualified professional stating how the reasonable accommodation or

modification is necessary to mitigate the effects of the disability. The next step is to write a letter to the landlord requesting the accommodation or modification and explain how the request will be helpful (be sure to keep a copy). The tenant is not required to tell the landlord the specifics of his or her disability or entire medical history. Requests for accommodation can be made at any time. If the request is made during the eviction process, the tenant must show that an accommodation will allow the tenant to obtain compliance and remain compliant with the terms of the lease. A landlord may be required to give a tenant time to secure services that might enable him or her to comply with the terms of the lease.

If the disability is not obvious or is not known to the housing provider, the provider can request:

- Verification that the tenant meets the FHA's definition of disability;
- information that describes the needed accommodation; and
- information that shows the relationship between the disability and the need for the requested accommodation.

Q. Who pays for a modification to an individual dwelling or apartment?

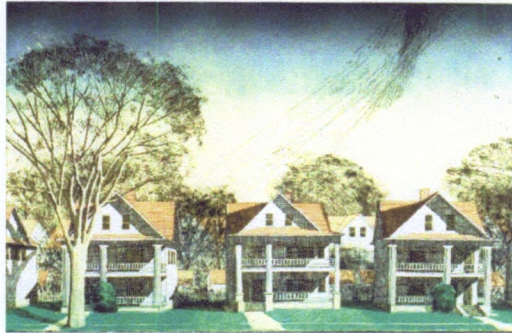
A. The tenant must pay for any costs associated with a modification solely within the individual dwelling or apartment. The provider can condition granting the modification on a reasonable description of the proposed modification and requiring that the work be performed in a professional manner. The housing provider must allow the tenant to make the modification if it is reasonable. If the dwelling or apartment is rented, the landlord may require the tenant to restore the unit to its original condition when the tenant moves out. The tenant does not have to restore damage caused by reasonable wear and tear.

Q. What can a tenant do if his/her right to a reasonable accommodation or modification has been denied?

A. When a housing provider refuses a requested accommodation or modification because it is unreasonable, the provider should discuss with the tenant whether there are alternatives or substitutes that would effectively address the tenant's needs. The provider or landlord should give primary consideration to the accommodation requested by the tenant. The tenant is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective. If a landlord has denied a request for a reasonable accommodation or modification, or if someone suspects housing discrimination due to a disability, please contact Wyoming Protection & Advocacy System, Inc. ("P&A").

Q. What is a "direct threat" eviction?

A. The FHA does not protect a tenant "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." Housing providers or landlords should not rely on generalized assumptions, bigoted fears, or speculation as conclusive evidence of dangerous behavior. Before evicting, the provider must determine whether there is an accommodation that could eliminate or minimize the direct threat.



Q. What is Section 504?

A. Section 504 is part of the federal Rehabilitation Act of 1973 that prohibits anyone who receives federal financial assistance from discriminating on the basis of disability. Generally, public housing authorities receive federal assistance, as do private landlords who own units that are subsidized. Administrative complaints must be filed within 180 days under Section 504. Under the Section 8 Housing Choice Voucher Program ("Section 8") the tenant is federally subsidized rather than the apartment units, and, therefore, Section 504 does not apply.

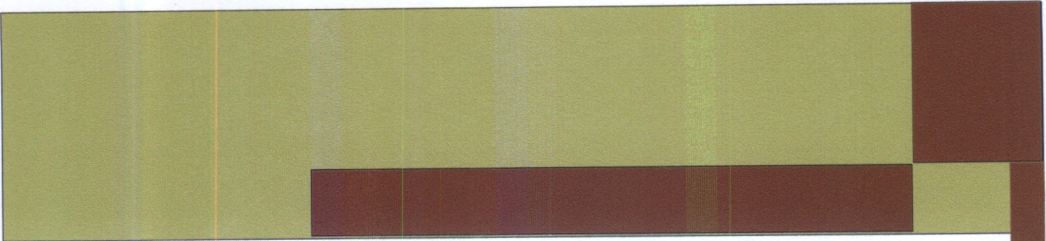
An "accessible" apartment under Section 504 must comply with the Uniform Federal Accessibility Standards. These standards can be obtained at www.access-board.gov/aba, or by contacting HUD at (303) 672-5437.

Q. Does Section 504 require public housing providers to make reasonable accommodations and modifications?

A. Section 504 requires public housing providers to make reasonable accommodations and modifications for tenants with disabilities. Unlike the FHA, Section 504 requires the public housing provider to *always* pay for the modification, even if it is located within an individual apartment, as long as the cost is not unreasonable.

Q. How does one file a complaint if his or her housing rights are violated?

A. The U.S. Department of Housing and Urban Development ("HUD") investigates complaints filed by individuals with disabilities alleging housing discrimination. In Wyoming, individuals who wish to file a complaint should contact HUD at the following address:



U.S. Department of Housing and Urban Development
Denver Regional Office of FHEO
1670 Broadway
Denver, Colorado 80202-4801
(303) 672-5437
1-800-877-7353
TTY (303) 672-5248
Or via the internet at:

http://portal.hud.gov/portal/page/portal/HUD/topics/housing_discrimination

Q. What is the deadline for filing a HUD complaint?

A. A HUD complaint must be filed in writing within one year of either the occurrence or the termination of discrimination.

NOTE: If the problem is ongoing, the discriminatory act will not “terminate” until the issue is corrected.

Q. How much time does HUD have to complete its investigation?

A. Generally, HUD has 100 days to investigate and issue findings, but can take extra time if necessary. If HUD cannot complete its investigation within 100 days, it must send a written notice to the individual who filed the complaint (“complainant”) explaining the reasons for the delay.

The FHA requires HUD to conciliate housing complaints. This means HUD will try to negotiate a settlement between the complainant and the housing provider before it completes its investigation.

If the case does not settle, HUD will issue findings. These conclude either that a) no discrimination occurred, or b) that there is a reasonable cause to find that discrimination occurred.

If HUD finds “reasonable cause,” HUD will try the case against the housing provider before a HUD Administrative Law Judge. However, either the complainant or the housing provider has the right to have the case heard in federal civil court. This right must be exercised in writing not more than 20 days after HUD issues its findings. If the case goes to federal court, the U.S. Department of Justice (“DOJ”) tries the case.

NOTE: HUD may refer complaints to state and city human rights agencies for investigation and enforcement when it determines the state or city has laws that provide substantially the same rights as does the federal FHA.

If one discriminates, he/she could be subjected to these penalties:

- Be forced to rent or sell the property to the complainant;
- Pay for any damages or injury, including, but not limited to, the difference in cost of an alternate rental or home, the cost of finding that rental or home, or the cost of the reasonable accommodation or modification;
- Pay punitive damages;
- Pay civil penalties;
- Pay the other party’s attorney’s fees and costs;
- Participate and/or pay for fair housing training; or
- Change condominium or other housing rules.



For More Information about Your Housing Rights Contact:

Protection & Advocacy System, Inc.

CHEYENNE

7344 Stockman Street
Cheyenne, WY 82009
(307) 632-3497 Voice or Relay
(800) 632-3491 (Assistance Requests Only)
(307) 638-0815 FAX
wypanda@wypanda.com

LANDER

153 South 5th Street
P. O. Box 58
Lander, WY 82520
(307) 332-8268 Voice or Relay
(877) 670-8366 (Assistance Requests Only)
(307) 332-2842 FAX
wypandl@wypanda.com

www.wypanda.com

U.S. Department of Housing and Urban Development

1670 Broadway, 23rd Floor
Denver, CO 80202-4801
(303) 672-5440 voice
(800) 225-5342 voice
(303) 672-5022 TTY
(303) 672-5004 fax
Web: <http://www.hud.gov>
Complaint form: <http://www.hud.gov/complaints/housediscrim.cfm>

Wyoming Attorney General's Office

123 Capitol Building
200 W. 24th Street
Cheyenne, WY 82002
(307) 777-7841
(307) 777-6869 FAX
<http://ag.wyo.gov>

Wyoming State Bar Lawyer Referral Service

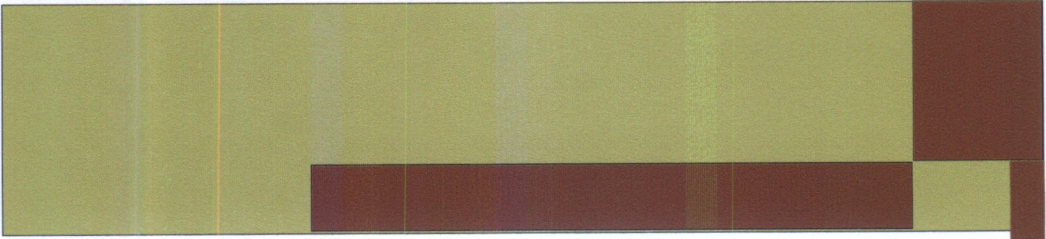
4124 Laramie Street
P.O. Box 109
Cheyenne, WY 82003-0109
(307) 632-9061
www.wyomingbar.org

Legal Aid of Wyoming, Inc.

211 West 19th Street, Suite 300
Cheyenne, Wyoming 82001
(307) 432-0807
(307) 432-0808 FAX
(877) 432-9955 Toll free
lawyoming.org

ADA HOTLINE (function of the U.S. Department of Justice)

(800) 514-0301
(800) 514-0383 TTY
<http://www.ada.gov/>



U.S. Department of Justice
Disability Rights Section
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section – NYA
Washington, D.C. 20530
(202) 307-1197 FAX
justice.gov/crt

Civil Rights Division
(202) 514-4609
(202) 514-0716 TTY

Disability Rights Section
(202) 307-0663

Judge David L. Bazelon Center for Mental Health Law
1101 15th Street, NW, Suite 1212
Washington, DC 20005
(202) 467-5730
<http://www.bazelon.org/>

National Housing Law Project
www.nhlp.org

HUD/DOJ Joint Statement of Reasonable Accommodations:
<http://www.hud.gov/offices/fheo/library/huddojstatement.pdf>

HUD/DOJ Joint Statement on Reasonable Modifications:
http://www.hud.gov/offices.fheo/disabilities/reasonable_modifications_mar08.pdf



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