

Housing and Reasonable Modifications for People with Disabilities



FAQ

California law protects people from discrimination in housing. This law is called the Fair Employment and Housing Act or FEHA for short. When a person with a disability needs to physically modify their housing unit or a common area so that they can enjoy equal access to housing, FEHA may require the person's landlord, homeowners association, or another type of housing provider to grant the request. This topic is commonly referred to as "reasonable modifications."

This document provides a general overview of reasonable modifications by answering frequently asked questions (FAQs). These FAQs do not address all issues and scenarios related to reasonable modifications, and they do not address the separate topic of "reasonable accommodations" or other housing protections for people with disabilities.¹

1 | What is a reasonable modification?

A reasonable modification is a change to the physical premises of an existing housing accommodation that allows a person with a disability equal opportunity to obtain, use, or enjoy housing.² Examples of reasonable modifications include:

- Installing a grab bar by the toilet or shower to allow someone with a physical disability to use their housing unit's bathroom safely
- Widening a doorway and lowering cabinets to make rooms more accessible for a resident who uses a wheelchair
- Installing a ramp to the entrance to, or other common area in, an apartment building to allow access by a tenant using a mobility assistance device, such as a walker
- Installing a blinking doorbell or emergency alarm in a deaf resident's housing unit
- Adding braille to signs in a common space of a housing complex so that a blind resident can access the information

FEHA applies to all housing providers, including property management companies, landlords, and homeowner associations (HOAs).³ Housing providers must allow an individual with a disability, or someone on their behalf, the opportunity to make reasonable modifications to the premises of an existing housing accommodation, unless an exception applies (see FAQ No. 6 below).⁴

1 Regulations regarding reasonable accommodations and reasonable modifications can be found at California Code of Regulations, title 2, sections 12176 to 12185. More information about protections against housing discrimination related to disabilities can be found in CRD's factsheet "Disability Discrimination," available at: <https://bit.ly/3TZIUdI>

2 Cal. Code Regs., tit. 2, § 12176(b).

3 Cal. Code Regs., tit. 2, §§ 12005(v), (w), 12167(d).

4 Cal. Code Regs., tit. 2, § 12176(d).

Housing and Reasonable Modifications for People with Disabilities

2 | What is a “disability” under California fair housing law?

Under FEHA, a disability is a mental or physical impairment, disorder, or condition that limits a major life activity.⁵ “Major life activity” is broadly defined and includes, for example, physical activities (such as walking, bathing, and standing), mental activities (such as thinking, reading, and concentrating), and social activities (such as interacting with others).⁶

3 | What does someone need to do to request a reasonable modification?

A request for a reasonable modification does not have to be made using any particular words or method.⁷ A request for a reasonable modification is made at the time the requestor orally or in writing, or through a representative, asks for a modification to a housing accommodation because of a disability, regardless of whether the phrase “reasonable modification” is used as part of the request. A request for a reasonable modification may be made at any time, including during the application process, before purchase or lease, while seeking or enjoying a housing opportunity, during the tenancy or occupancy of a housing accommodation, during litigation, at or after trial, and after judgment in appropriate circumstances.⁸

4 | May a housing provider ask for proof that the requested modification is necessary?

Yes, but only when the disability or the need for the modification isn’t obvious or known to the person considering the request. For example, if a resident living in a condominium asks the HOA for permission to install a ramp at the entrance to a building because they utilize a wheelchair, the disability and the need for the modification would be obvious, and the HOA may not require additional proof.⁹

If the person’s disability is not apparent or known to the person considering the request, then the housing provider can only ask for information necessary to establish (1) the person has a disability; (2) a description of the needed modification; and (3) information to show the relationship between the individual’s disability and how the requested modification is necessary to afford the individual with a disability equal opportunity to use and enjoy the housing.¹⁰ A housing provider cannot ask for information about a person’s particular diagnosis or medical history.¹¹

For example, a tenant with a mental health disability requests to install soundproofing in their apartment, and neither the disability nor the need for the soundproofing is obvious or known to the landlord. The landlord may ask for limited information regarding

5 Gov.Code §§ 12926 (i), (j),(m).

6 Gov. Code § 12926(j)(1)(C), (m)(1)(B)(iii); Cal. Code Regs., tit. 2, § 11065(l).

7 Cal. Code Regs., tit. 2, § 12176 (f)(3).

8 Cal. Code Regs., tit. 2, § 12176 (f)(3); § 12176 (f)(8) (reasonable modifications requests and unlawful detainers)

9 Cal. Code Regs., tit. 2, § 12178(f).

10 Cal. Code Regs., tit. 2, § 12178(c)-(d).

11 Cal. Code Regs., tit. 2, § 12178(e).

Housing and Reasonable Modifications for People with Disabilities

the existence of a disability as well as the disability-related need for the request. In response, it would be enough for the tenant to provide a note from their therapist stating soundproofing is necessary because the tenant has a disability that makes it difficult for them to manage loud noises.

Proof of the need for the accommodation can come from a credible statement by the requestor.¹² For example, if a tenant credibly tells the housing provider that they are hard-of-hearing, this statement can support the tenant's request to install a doorbell that flashes. Or, a tenant could show they have a disability by sharing with the housing provider documentation that they receive disability benefits. If the tenant provides reliable information that shows the disability-related need for the requested modification, the landlord cannot ask for more information.

5 | **May a housing provider require documentation of the disability or the disability-related need from a doctor?**

No. Proof can come from any reliable source who is in a position to know about the individual's disability or the disability-related need for the requested modification.¹³ This can include a therapist, doctor, nurse, non-medical service provider such as a social worker, peer support group, or any other reliable third party who is in a position to know about the individual's disability or disability-related need for the modification, including a relative in a caregiving relationship with a person with a disability.¹⁴

6 | **When can a housing provider refuse to allow a requested reasonable modification?**

A housing provider can lawfully deny a request for a reasonable modification for any of the following reasons:

- The individual on whose behalf the modification was requested is not disabled, or cannot show a disability-related need for the modification.¹⁵
- The requestor refuses to provide a description of the project, plans for the project to be done in a competent manner, or to obtain necessary permits.¹⁶
- The requestor refuses to restore the unit to be modified back to its original condition (discussed in detail below) if restoration is reasonable.¹⁷
- The requestor refuses to pay for the modification unless the housing provider is required to pay for it (discussed in detail below).¹⁸

12 Cal. Code Regs., tit. 2, § 12178.

13 Cal. Code Regs., tit. 2, § 12178(g).

14 Cal. Code Regs., tit. 2, § 12178(g)-(h).

15 Cal. Code Regs., tit. 2, § 12179(a).

16 Cal. Code Regs., tit. 2, § 12179(c)(3).

17 Cal. Code Regs., tit. 2, § 12179(c)(4).

18 Cal. Code Regs., tit. 2, § 12179(c)(1).

Housing and Reasonable Modifications for People with Disabilities

- The requestor does not provide a reasonable description of the proposed modifications or confirmation that the modification will be done in a “workmanlike” manner.¹⁹

In addition, a housing provider does not have to allow a modification that is not reasonable. A modification is not reasonable if the housing provider would have to pay for it and that would create an undue financial and administrative burden.²⁰ A modification is also not reasonable if it involves a fundamental alteration in the housing provider’s services or operations.²¹

A court would decide whether a requested modification is too expensive or too burdensome to administer on a case-by-case basis, considering specified factors such as:

- The cost, if the housing provider has to pay for the modification
- The housing provider’s financial resources, if they have a duty to pay for the modification
- The benefit to the person with a disability
- Whether there are other available modifications that would meet the requestor’s disability related needs
- Whether the housing provider is part of a larger organization that has greater resources and the relationship of the housing provider to the larger organization
- Whether the reason the person with a disability has requested the modification relates to the housing provider’s failure to adequately develop, maintain, or repair the property²²

7 | When someone requests a modification, are they protected from retaliation or other negative actions by the housing provider?

Yes. Housing providers may not take negative actions against someone who informs the housing provider that they will need a reasonable modification.²³ For example, a housing provider cannot deny someone’s application for a tenancy, or charge a higher security deposit, because the applicant requests permission for a reasonable modification to widen the doorway to allow wheelchair access.

8 | Do housing providers have to pay for reasonable modifications?

Usually, no. The person requesting the reasonable modification is usually responsible for paying for the reasonable modification. However, a housing provider may be responsible for paying for a reasonable modification when:

¹⁹ Cal. Code Regs., tit. 2, § 12179(c)(3).

²⁰ Cal. Code Regs., tit. 2, § 12179(c)(2)(i).

²¹ Cal. Code Regs., tit. 2, § 12179(c)(2)(i).

²² Cal. Code Regs., tit. 2, § 12179(d)(1)–(6).

²³ Cal. Code Regs., tit. 2, § 12176(d).

Housing and Reasonable Modifications for People with Disabilities

- Modifications are needed because the housing provider failed to maintain or repair an existing accessible feature, such as an elevator.²⁴
- The unit is located in certain types of government-subsidized affordable housing, such as Housing Choice/project-based Section 8 units or public housing,²⁵ but this does *not* include housing rented with Housing Choice/Section 8 vouchers.
- The modification was required by law when the property was constructed, such as if a housing provider didn't follow an applicable law that requires building a doorway wide enough for a wheelchair.²⁶

9 | Do housing providers have to respond to requests for reasonable modifications?

Yes. The law requires housing providers to respond to all requests for reasonable modifications by engaging in an interactive process. Even if a housing provider does not think they can approve a request, they still need to discuss the request with the tenant or resident and make a good-faith effort to see if the request or possibly an alternative modification will work.

For example, a person who uses a wheelchair moves into a building with three steps to enter the lobby. The new tenant requests that they be permitted to install a wheelchair ramp as a reasonable modification. The housing provider cannot approve the request because the specific ramp the new tenant identified to use would extend out onto the sidewalk, violating the city's municipal code. The housing provider meets with the tenant, and they discuss and settle on a ramp that would meet the tenant's needs without reaching into the sidewalk.

10 | After modification of a unit or common area, do tenants or residents have to restore the unit or common area to its original condition before moving out?

It depends. If a tenant or resident asks for a reasonable modification, the housing provider can condition approval on the tenant's or resident's agreement to restore the unit to its original condition. In other words, the housing provider can require the person requesting the modification to restore the unit in order to obtain permission for the modification.

However, a housing provider can only require that a tenant restore modifications to the interior of a tenant or resident's unit. Housing providers cannot require restoration for reasonable modifications in common or public areas. Additionally, a housing provider cannot require restoration of any reasonable modifications if they are located in condominiums or other "common interest developments," some subsidized housing, or in situations where the housing provider was required to pay for the modification.

24 Cal. Code Regs., tit. 2, § 12179(d)(6).

25 Cal. Code Regs., tit. 2, § 12181(h).

26 Cal. Code Regs., tit. 2, § 12179(d)(6).

Housing and Reasonable Modifications for People with Disabilities

11 | What can someone do if a housing provider refuses to allow a reasonable modification or otherwise violates the Fair Employment and Housing Act?

File a complaint with the Civil Rights Department (CRD). They may also consider contacting an attorney (such as legal aid or a private attorney) or a fair housing organization for assistance. To file a complaint with CRD, visit:

<https://calcivilrights.ca.gov/complaintprocess>

TO FILE A COMPLAINT

Civil Rights Department

calcivilrights.ca.gov/complaintprocess

Toll Free: 800.884.1684

TTY: 800.700.2320

If you have a disability that requires a reasonable accommodation, CRD can assist you with your complaint. Contact us through any method above or, for individuals who are deaf or hard of hearing or have speech disabilities, through the California Relay Service (711).

For additional translations of this guidance, visit: www.calcivilrights.ca.gov/posters/housing/