# APPENDIX A: REASONABLE ACCOMMODATION POLICY

The following Reasonable Accommodations Policy applies to the HCV Program and the Public Housing Program:

## A. Introduction

1. The Cambridge Housing Authority (CHA) does not discriminate on the basis of race, sex, color, religion, national origin, ancestry, sexual orientation, age, familial status, or physical or mental disability in the access or admission to its programs or employment, activities, functions or services.
2. The CHA is covered by Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Titles II and III, the Fair Housing Act and Massachusetts Chapter 151B as well as other federal, state and local fair housing laws, regulations, and policies which require reasonable accommodation to persons with disabilities as defined in those laws.
3. A Notice of the right to reasonable accommodation shall be posted in the management office(s) and program offices, and shall be included with all applications for housing programs, lease violation notices, eviction notices, voucher termination notices, and re-certifications. Such notice will also be included in the Resident Handbook and other relevant resident publications. Notices shall be in large print and posted or included in a manner that is readily seen by persons with all disabilities. Such notices will also be available in other formats for persons who cannot read them. Notices of denial of participation in a program or service shall include the reason for the denial and the right to request a reasonable accommodation. The Notice shall include the name, phone number, TTD number, fax number, and the email address of the 504/ADA Coordinator. This Notice and these Policy and Procedures shall also be posted on the CHA's website (http://www.cambridge-housing.org) and be made available, without charge, to anyone upon request.
4. CHA residents and program participants should contact the following individuals for more information about this policy:
    a. Site Manager
    b. Leasing Officer
    c. 504/ADA Coordinator

    The complete contact information for individuals holding these positions can be obtained by request or by visiting the staff directory on the CHA's website (http://www.cambridge-housing.org).

## B. What is a Reasonable Accommodation/Modification?

1. A reasonable accommodation is a change or modification of CHA's policies, practices or procedures for people with disabilities that is necessary to insure equal access to CHA's premises, amenities, services and programs. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with disability, in order to afford such person full enjoyment of the premises.
2. The definition of a person with a disability for purposes of a reasonable accommodation follows the definition in Section 504 of the Rehabilitation Act, the American with Disabilities Act, the Federal Fair Housing Act, Massachusetts General Laws Chapter 151B and any other applicable statutes:
    a. Disability means a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.
    b. Major life activities include, but are not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, breathing, learning, working, thinking, eating, standing, lifting, concentrating, communicating, and sleeping.
3. Exceptions:
    a. The term disability does not include current use or current addiction to illegal drugs. *Current* means:
        i. It occurred recently enough to justify a reasonable person to believe that the use is current; or
        ii. That continuing use is a real and ongoing problem.
    b. Where there is evidence of prior use of illegal drugs and the requestor contends he/she is not engaged in current use, the requestor must provide evidence of recovery and be willing and able to be lease compliant.
4. 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
    b. He/she would cause substantial damage to property; or
        i. He/she is not otherwise qualified for the CHA program and this cannot be mitigated by a reasonable accommodation.
5. Reasonable accommodations will be made up to the point of undue financial or administrative burden, or requiring changes fundamental to the program in accordance with the provisions of Reasonable Accommodation/Modification Evaluation Criteria of this policy. Reasonable modifications will be made up to the point of structural infeasibility, or undue financial or administrative burden.

## C. Reasonable Accommodation/Modification Evaluation Criteria

CHA will evaluate requests for accommodation or modification by determining if the requests satisfy all of the following four criteria.

1. Request
    a. CHA must receive a request for the accommodation or modification.
    b. The request does not have to come from the disabled person in question. Any person may make the request on behalf of the disabled person.
    c. The request does not have to be in any particular form nor do the words reasonable accommodation need to be used.
    d. The request may be verbal, although the CHA prefers written requests.
    e. The request may be presented at any point in time during intake, admissions, tenancy, or participation in any of CHA's programs or services.
    f. CHA will only consider requests made after termination of assistance when there is a compelling reason to evaluate the merits of the request that is directly related to the disability.
2. Disability
    a. The accommodation or modification must be for a person who has a condition that meets the definition of disability. Such persons include the head of household as well as any household members.
    b. It is not necessary for the CHA to know the details of a disability.
    c. The CHA will not require access to confidential medical records in order to verify a disability.
    d. The CHA may request only information that is necessary to evaluate the disability-related need for the accommodation.
    e. The person providing documentation to verify the requestor's disability need not have a medical degree or a particular expertise. However, the CHA must have adequate confidence in their judgment and competence.
    f. When a disability, as defined in the What is a Reasonable Accommodation/Modification? section of this policy, is obvious or known to staff, documentation of the disability will not be required.
        i. Examples of a *known or obvious disability* include, but are not limited to, inability to walk, blindness, deafness, a disability that has previously been documented, or where the person receives SSI or SSDI disability benefits.

g. When the disability and/or need is not obvious or known to staff, requests will require verification that the individual meets the definition of disability, and when relevant, that the accommodation is likely to resolve the problem.

h. If a disabled individual, who has committed a program violation, requests a reasonable accommodation in order to comply with CHA program requirements, the CHA must, in considering this request, determine whether non-compliance is likely to recur even with the accommodation sought.

    i. The CHA may request that the individual provide appropriate information or verification, within a reasonable time period, to establish that non-compliance is not likely to recur.

    ii. If the requested accommodation is not likely to solve the program violation, and continuation of the program violation will pose a threat to the health or safety of others, unreasonably disrupt the quiet enjoyment of other tenants, or constitute a fundamental alteration in the program, the accommodation request may be denied.

    iii. The CHA will rely on objective information, not mere speculation, to determine whether an accommodation will solve a program violation or whether it is likely to recur in the future.

3. Necessity for Reasons Substantially Related to the Disability

    a. The requested accommodation or modification must be necessary for the disabled person's full enjoyment of CHA programs, facilities, employment, or premises; and

    b. The necessity must be substantially related to the requestor's disability.

    c. CHA is not obliged to provide accommodations or modifications that may be necessary to the requestor, but are for reasons that do not substantially relate to the disability.

4. Reasonableness

    The requested accommodation or modification must be reasonable. A request is not reasonable if any of the following are true:

    a. Undue Financial and Administrative Burden on CHA.

        i. The request would, if approved, impose an undue financial and administrative burden on CHA.

        ii. CHA will determine on a case-by-case basis whether a request would impose an undue financial and administrative burden.

iii. Relevant factors include:

1. The administrative cost and burden of the requested accommodation in comparison with the administrative cost of regular operations;
2. Limits or availability of CHA's overall resources;
3. The benefits that the accommodation would provide the requester, and
4. The availability of other, less expensive, alternative accommodations that would effectively meet the requester's disability-related needs.

b. Fundamental Alteration in the Nature of CHA's Program(s): The request would, if approved, fundamentally alter CHA's program(s). This means that the request, if granted, would require the CHA to provide a program or service that it does not normally provide, such as counseling services, medical services, or transportation services.

**D. Reasonable Accommodation Documentation**

When documentation is necessary, the CHA strongly recommends that applicants or residents use the CHA verification form.

1. CHA may require a Request for Reasonable Accommodation/Modification and Authorization for Release of Information, as well as Request for Verification from a Third Party Concerning a Reasonable Accommodation or Modification if other forms of documentation do not adequately document the need for accommodation. These forms can be obtained at management offices, Leased Housing Department, Operations Department, Legal Department, and the program form section of the CHA website (http://www.cambridge-housing.org).
2. The CHA may request only information that is necessary to evaluate the disability-related need for the accommodation. No additional documentation will be required where the disability and the related need for an accommodation are readily apparent or otherwise known to the CHA.
3. All information gathered in this process must be kept confidential and must not be shared with other CHA staff persons unless they need the information to implement the request.
4. The CHA shall limit any information available to a staff person implementing a decision to only the information that is necessary to take appropriate action.
5. It is the responsibility of the person requesting the accommodation to secure such documentation or to give CHA the information necessary to secure such documentation.

Documentation must come from a reliable source with sufficient professional and personal knowledge of the applicant/resident to answer the applicable questions.

6. The CHA has the right to sufficient documentation to make a decision, but does not have a right to diagnosis, medical history or treatment unless directly relevant to a reasonable accommodation request. For example, in response to a request for accommodating chemical sensitivity, the CHA could request a list of the specific materials that an individual is sensitive to.

**E. Examples of Reasonable Accommodations**

1. An accommodation could require a change to a CHA policy or practice. A modification could require a physical alteration to a CHA building or grounds.

**EXAMPLE:** Jonathan, an individual with a hearing impairment, could request that the CHA modify the doorbell in his/her apartment from a chime to a flashing light. Maria, an individual with a mental disability, could request that the CHA waive its no pet policy to allow Maria to reside with a comfort animal. These are just a few examples of what would be considered reasonable requests for an accommodation.

2. An accommodation will be made up to the point of structural infeasibility, undue financial/administrative burden or requiring changes fundamental to the program.

**EXAMPLE**: Claudia, an individual with mobility impairment, could request that the CHA extend the search period on a voucher beyond the normal 120-day search period in order to locate an apartment that meets her needs.

**EXAMPLE:** Ian, an individual with mobility impairment, requests that the CHA make his current CHA apartment barrier free. In order to accomplish this, the CHA would have to remove a wall that is required for the structural support of the building making the requested accommodation impossible. CHA would offer to transfer Ian to an apartment that is already fully accessible.

**EXAMPLE:** Freddy, an applicant with disabilities and income well in excess of the maximum income levels for eligibility requests that the CHA waive the income eligibility maximums so that he may obtain a first floor apartment in CHA owned housing. Even if Freddy could show the connection between his disability and the need for a first floor apartment, waiving the maximum income levels would be a fundamental change to the program since CHA housing is meant to be available to low income households. Freddy is not qualified for the program. Admitting him would be a fundamental change.

**NOTE:** CHA respects each person's right to privacy and in most cases has no need or desire to collect personal medical information from residents or applicants. For this reason, the CHA may refuse to accept some documentation that a resident or applicant

deems to be crucial to his/her situation. For example, some applicants that are individuals with disabilities may wish to supply medical documentation that provides details on his/her condition when the fact that he/she is on SSDI is sufficient to be considered a person with disabilities. In this case the additional documentation is unnecessary. However, there are times when an applicant will be required to provide additional information. For example, an applicant requests an accommodation that is specific to his or her lack of mobility. In this case, it would not be unreasonable to ask questions or seek additional documentation with respect to the nature and extent of the person's mobility impairment, so as to provide an apartment with the feature needed for the person to live in the apartment.

3. Examples of When an Accommodation May Be Denied/Determined as Not Reasonable

**EXAMPLE:** Rachel, a resident residing on the third floor, has a tragic accident that leaves her permanently unable to climb stairs. Rachel requests that CHA install a permanent lift system in the publicly accessed stairway as a reasonable accommodation. After review of the layout of the stairwell and the cost of the lift system, it is determined that the request is not only structurally infeasible but would also be a financial burden on CHA. As an alternative, the CHA offers to transfer Rachel to the next available first floor apartment.

**EXAMPLE:** Ali, an individual with disabilities resides by himself in family housing. During the past year, Ali has set off the smoke alarm four times because he has forgotten to shut off the stove. Just recently, a fire started on the stove in Ali's apartment but was luckily contained by a neighbor. The CHA, fearing for the safety of the other residents, initiates an action to evict the resident. In response, Ali requests that his son reside with him in his apartment because his disability prevents him from living alone. Ali states that he should have overnight assistance. When assessing the request, the manager noted that all of the incidents occurred in the evening and after talking to the son, it is determined that he works the night shift and Ali would continue to be alone in the evening. The manager in this case would be justified if he/she denied the request.

4. Documentation

**EXAMPLE:** Joan has asked for a transfer to a first floor apartment as a reasonable accommodation because she has a disability that makes climbing stairs difficult. The CHA would ask for medical documentation that relates to Joan's disability but only with respect to her ability to climb stairs. The CHA would not ask for information regarding any unrelated issues or conditions that are unrelated to her specific reasonable accommodation request.

**NOTE:** A proposed Live-in Aide is subject to background checks, CORI checks, and SORI checks. CHA may disapprove such a person if s/he 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 activity; or (3) currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act. A live-in aide is not a member of the household and therefore is not entitled to the voucher or unit as the remaining member of the requestor's family.

**F. Procedure**

These are CHA's reasonable accommodation procedures for public housing and HCV; however, as applicable, some of the procedures may only apply to one program or the other.

1. Applicants or residents may make Reasonable Accommodation requests at any time and may make them verbally, although for reasons of clarity for both parties, Cambridge Housing Authority's preference is that requests be in writing.

    a. Request for Reasonable Accommodation/Modification and Authorization for Release of Information and Request for Verification from a Third Party Concerning a Reasonable Accommodation or Modification forms may be obtained from management offices, Leased Housing Department, Operations Department, Legal Department, and the program form section of the CHA website (www.cambridge-housing.org).

    b. Staff will assist applicants or residents who need such assistance and will accept requests in alternate format, if necessary because of a disability, such as tape recordings of information, large type, or bold print.

    c. At the time a request is made, the person making the request will receive a date-stamped receipt and information necessary to track their request.

    d. Requests for reasonable accommodation and modification may be submitted to any CHA staff person or its agent but will promptly be passed on to the appropriate person (site manager, leasing officer, or 504/ADA Coordinator) as described below.

2. Site Managers or Leasing Officers are authorized to process reasonable accommodation requests that are non-monetary or cost less than $2,500, that are routine, do not involve a complex issue, and do not require additional verification from a third party.

    a. An issue is complex if it requests a significant change in rules, regulations, or standard practice of the CHA, involves an outside agency, or involves a legal issue.

    b. If the Site Manager or Leasing Officer determines that the request will require additional verification from a third party, he/she will refer the request to the

504/ADA Coordinator within five (5) business days and immediately notify the requestor of the referral.

3. For routine requests, non-monetary requests, or those under $2,500, Site Managers or Leasing Officers shall approve a reasonable accommodation request in writing as soon as possible, but within ten (10) business days of receiving the request.
4. Any request that the Site Manger or Leasing Officer determines should not be approved will be referred to the 504/ADA Coordinator within 5 business day after the determination is made without a decision being issued. The Site Manager or Leasing Officer will immediately notify the requestor of the referral.
5. If the Site Manager or Leasing Officer approves the reasonable accommodation request, s/he will implement the change as soon as possible, but no later than ten (10) business days from the time of the decision or as soon as is reasonably possible to comply with the request.
    a. More time may be necessary for transfers, for items requiring bids, construction, special equipment, etc.
    b. Staff will notify the requestor of reasons for delay and, when feasible, the estimated completion time for such requests.
    c. A copy of all approvals will be sent to the 504 Coordinator.
6. The 504/ADA Coordinator is authorized to process the following:
    a. All requests $2,500 and over,
    b. Requests under $2,500 that are referred by a Site Manager or Leasing Officer in accordance with paragraph 2 and paragraph 4 above,
    c. Transfers related to a reasonable accommodation requests,
    d. Requests for assistance animals,
    e. Requests requiring additional verification from a third party,
    f. Requests containing complex issues as defined above, and
    g. All policy-related requests.
7. The 504/ADA Coordinator shall approve or deny a reasonable accommodation request in writing as soon as possible, but within 10 business days if there is no additional verification required, or within 10 business days of receiving sufficient verification to make a decision.
8. If the 504/ADA Coordinator, based on evidence, determines that the person is not disabled as defined in the What is a Reasonable Accommodation/Modification? section of this policy, or a request is structurally infeasible, poses an undue financial or

administrative burden or requires a fundamental change in the nature of the program, the 504/ADA Coordinator will follow the process set out below.

a. *Financial or Administrative Burden*. The 504/ADA coordinator will notify requestor in writing that the request constitutes a financial or administrative burden, with an explanation of the reasons and the right to obtain supporting documentation, and offer to make changes that do not pose such a burden if possible under the circumstances.

b. Possible alternatives could include but are not limited to:

    i. Paying for a less expensive partial accommodation,

    ii. Combining CHA funds with resources from other agencies, programs, or other sources,

    iii. A transfer to a unit that already has the requested features, or

    iv. Waiting until a later time when more funds are available.

    Notice shall also include the right to appeal the decision to the Appeals Officer.

    An agreement for a partial or delayed accommodation should be in writing or in an alternate permanent format. Upon request, the CHA shall provide the person requesting the accommodation with adequate supporting documentation of the basis for determining undue burden. Such notice shall also include the right to appeal the decision to the Appeals Officer.

c. Structural Infeasibility. The 504/ADA coordinator will notify requestor in writing that the request constitutes a structural infeasibility, with an explanation of the reasons and the right to obtain supporting documentation and an offer to carry out reasonable alternatives.

    i. Possible alternatives could include but are not limited to:

        1. Transfer to a unit that already has the requested features,

        2. An agreement for a partial accommodation or a feasible alternative.

    ii. Notice shall also include the right to appeal the decision to the Appeals Officer.

d. *Fundamental Change.* If the 504/ADA Coordinator finds that the request requires a fundamental change in the nature of the program, (s)he will give requestor a written explanation and will discuss and carry out any reasonable alternatives, with the agreement of the requestor, that do not require a fundamental change in the nature of the program. Such notice shall also include the right to appeal the

decision to the Appeals Officer

e. If the 504/ADA Coordinator finds that the person is not disabled within the definition in the policy, (s) he will give requestor a written explanation. The notice shall also include the right to appeal the decision to the Appeals Officer.

9. If the requestor agrees to something other than the initial request, he/she will sign or otherwise record approval of such an agreement.

10. In some cases, a meeting (in person or virtually) with the person requesting the accommodation, and any service providers or other technical assistance sources, may be the best way to identify the best solution.

    a. The person seeking the accommodation may bring anyone they consider helpful to such a meeting.

    b. Upon request of either party, such meetings will be held promptly but no later than ten (10) business days from the time of request to the CHA and at a mutually agreeable time for all participants.

11. Once a reasonable accommodation request is granted, and an accommodation that meets the needs of the requestor is offered, the requestor has five (5) business days to accept the offer.

    a. The requestor may reject the offer for good cause, in which case the 504/ADA Coordinator will extend a new offer to the requestor.

    b. In order to demonstrate good cause for rejecting an offer, the requestor must be willing to document one of the situations below:

        i. The requestor is willing to accept the offer, but is unable to do so at the time of the offer because of temporary hospitalization or recovery from illness of the head of household, other household members or live-in aide;

        ii. The requestor demonstrates that acceptance of the offer would place a household member's life, health or safety in jeopardy; or

        iii. The offer is inappropriate to meet the needs of the requestor.

    c. If the requestor cannot demonstrate good cause for rejecting the offer, the 504/ADA Coordinator will consider the request for reasonable accommodation closed.

        i. The 504/ADA Coordinator will promptly notify the requestor of the decision to consider the reasonable accommodation request closed and that the requestor did not have good cause to reject the offer.

ii. The notice to notify the requestor shall include their right to request a review before the Appeals Officer.

**G. Appeal Process**

1. An individual who received a denial of a request for reasonable accommodation or is otherwise dissatisfied with an accommodation that is offered from the 504/ADA Coordinator has the right to appeal that decision to the Appeals Officer.
2. The time period to request a review with the Appeals Officer shall be ten (10) business days from receipt of the notice of CHA's action.
3. Requests should be made to the Appeals Officer in writing or an alternate format. The Appeals Officer can be reached by contacting the CHA Legal Department.
4. Once a request is received, an informal hearing shall be scheduled within ten (10) business days.
5. If requested, the Executive Director or his/her Designee may accept late requests for an informal hearing, provided that the requestor can show good cause or as a reasonable accommodation to the appeal process.
6. During the appeal process the requestor will:
    a. Receive an informal hearing before the Appeals Officer. The informal hearing will be audio taped.
    b. Have the ability to copy documents from the individual's CHA file.
        i. The requestor will be given the opportunity to examine before the informal hearing any CHA documents[1] that are directly related to the reasonable accommodation request.
        ii. The requestor will be allowed to copy any such documents at the individual's expense.
    c. Be able to present any relevant evidence.
    d. Have the opportunity to respond to any CHA allegation and to cross-examine any witnesses.
    e. Be able to present witnesses or oral objections to any evidence.
    f. Have the opportunity to obtain representation at the individual's own expense.
    g. Have the opportunity to request an interpreter to be provided by the CHA, at the

[1] The term *documents* includes records and regulations.

CHA's expense.

h. Be able to request a copy of the informal hearing audiotape.

i. Will receive a written decision within ten (10) days of the informal hearing, overturning or upholding the decision of the 504/ADA Coordinator.

j. Have the opportunity to request reasonable accommodation as to the manner in which the informal hearing is conducted.

7. Evidence may be considered without regard to admissibility under the rules of evidence applicable under judicial proceedings; and factual determinations relating to the individual circumstances of the participant shall be based on the evidence presented at the informal hearing.

8. The CHA shall present evidence to support its proposed reasons for denying the reasonable accommodation outlined in its written denial of the individual's request for reasonable accommodation.

9. If the CHA wishes to amend the grounds for the proposed denial, the CHA must notify the requestor by letter no fewer than fourteen (14) days prior to the informal hearing.

10. The Appeals Officer shall not be the person who made the decision in question, nor that person's subordinate.

11. The Appeals Officer shall make a factual determination relating to the individual circumstances of the individual that shall be based on a preponderance of the evidence presented at the informal hearing.

12. Upon request, and within thirty (30) days after the informal hearing, the Executive Director may exercise his/her discretion to reconsider a CHA Appeals Officer's decision as a reasonable accommodation to the Appeal Process, but only when new information surfaces which may justify reconsideration of the decision.

13. The CHA is not bound by decisions that are contrary to HUD regulations or requirements or contrary to Federal, State or local law.

14. If the Executive Director or his or her designee determines that the CHA is not bound by the informal hearing decision, the CHA must promptly notify the requestor of the determination and the reason for such a decision. Any such decision by the Executive Director or his/her designee shall be made in writing and shall explain its basis and shall state that the requestor also has the right to file a fair housing complaint with HUD, MCAD, or in a court of law.

15. Nothing in this Policy shall limit a person's rights to proceed with an administrative or court action relating to his or her disability. The CHA shall inform any individual in writing when their reasonable accommodation request is acted upon of their right to file a fair

housing complaint, whether or not a review is pursued, with the following administrative agencies or in a court of law:

Department of Housing and Urban Development (HUD)
Office of Fair Housing and Equal Opportunity
10 Causeway Street
Boston, MA 02222
Telephone 1 (800) 827-5005, or (617) 565-5308
TDD (617) 565-5453

Massachusetts Commission Against Discrimination (MCAD)
One Ashburton Place, Room 601
Boston, MA 02108
Telephone: (617) 727-3990
TDY (617) 727-3990, ext. 588

The Cambridge Human Rights Commission (CHRC)
51 Inman Street, 2nd Floor
Cambridge, MA 02139
Phone: (617) 349-4396
TTY: (617) 492-0235

16. CHA will not take adverse action against a requestor with a pending reasonable accommodation request if the action relates to the pending request.
17. CHA will take action against a requestor with a pending reasonable accommodation if the requestor presents a threat to the health and safety of other residents or tenants.

**H. Third-Party Representatives**

1. Any individual with a disability who makes a reasonable accommodation request may authorize a third party representative to act on his or her behalf in dealing with the CHA.
2. Upon presentation of appropriate authorization, a third party representative may fill out and sign the Request for Reasonable Accommodation form for an individual with a disability.
3. Upon submission of a written request by an individual with a disability who has asked for reasonable accommodation, an authorized third party representative shall be given access to all documents in the individual's file which relate to his or her reasonable accommodation request.