

SECTION 504 REASONABLE ACCOMMODATION POLICY AND PROCEDURES

I. POLICY STATEMENT

The Islip Housing Authority is committed to ensuring that its policies and procedures do not deny individuals with disabilities the opportunity to participate in or benefit from the programs, services and activities of the IHA. This commitment is in furtherance of the IHA's policy to provide affordable housing to low income families, regardless of disability. If an individual with a disability requires an accommodation such as an accessible feature or a modification of an IHA policy, the IHA will thoroughly and promptly consider such request, and will engage in an open and collaborative dialogue with applicants, residents, tenants and other individuals seeking reasonable accommodations in order to best serve the needs of all parties involved in accordance with applicable laws and IHA policies.

The policies and procedures set forth herein are designed to inform and assist IHA employees in competently processing reasonable accommodation requests and implementing the accommodations requested where appropriate.

A copy of the SECTION 504 REASONABLE ACCOMMODATION POLICY AND PROCEDURES, which is a part of the **IHA FAIR HOUSING AND REASONABLE ACCOMMODATION POLICY**, shall be posted in the Islip Housing Authority Administrative Offices located at 963 Montauk Highway, Oakdale, New York 11769, and in the management office in each RAD PBV development. In addition, individuals may obtain a copy of this Policy, upon request, from the IHA Section 504 Coordinator or from the IHA Administrative Office. These policies shall also be read consistent with the program Admin Policies and are not intended to conflict with each other, in the event of any conflicts in written language, the language required or consistent with the applicable law(s) then in effect across Federal, State and or local laws.

II. LEGAL AUTHORITY

Section 504 of the Rehabilitation Act of 1973¹ states that housing authorities shall provide reasonable accommodations for disabled persons and shall operate each existing housing program, service or activity so that the program, service or activity, when viewed in its entirety, is readily accessible to and usable by disabled persons.² Similarly, Title II of the Americans with Disabilities Act of 1990 (ADA)³ requires that "a public entity shall operate *each* service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities."⁴ The IHA is not required to take action that would result

¹ 29 U.S.C. §794.

² 24 C.F.R. §8.11, 8.24.

³ 42 U.S.C. §§ 12101 *et seq.*

⁴ 28 C.F.R. §35.150(a).

in a fundamental alteration in the nature of its services, programs, or activities, or would result in undue financial and administrative burdens.”⁵

This Policy is in compliance with the statutory authorities listed below:

1. Section 504 of the Rehabilitation Act of 1973 (Section 504);
2. Title II of the Americans with Disabilities Act of 1990 (ADA);
3. The Fair Housing Act of 1968, as amended (Fair Housing Act);
4. The Architectural Barriers Act of 1968
5. Title VI of the Civil Rights Act
6. The Age Discrimination Act of 1975
7. 24 C.F. R. Part 8 etc.

III. MONITORING, ENFORCEMENT AND TRAINING

The IHA shall designate an individual as the Section 504 Coordinator, and shall notify applicants, residents and program participants whenever there is a change in the designation. Applicants, residents, program participants, staff or other individuals who have questions regarding this Policy, its interpretation or implementation, or who otherwise require assistance with a reasonable accommodation, should contact the IHA Section 504 Coordinator, currently:

Richard E. Wankel, Esq.
Executive Director
Islip Housing Authority
963 Montauk Highway
Oakdale, New York 11769
Telephone (631) 589-7100 X220
Facsimile (631) 589-6575
Hearing/Speech Impaired Dial 7-1-1 (NY Relay)

The Section 504 Coordinator is the IHA employee designated to ensure the IHA’s programs, services and activities meet the requirements of Section 504; and to review and decide upon requests for, and to coordinate implementation of, reasonable accommodations in accordance with the policies of the IHA.

In furtherance of this designation, the Section 504 Coordinator shall monitor the following IHA activities:

- ensuring effective communication with applicants, beneficiaries, and members of the public. [24 CFR 8.6]
- ensuring that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions and dismissals, do not discriminate on the basis of disability. [24 CFR 8.10 - 8.13]
- ensuring that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards. [24 CFR 8.21]

⁵ 28 C.F.R. §35.150(a)(3).

- operating existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. [24 CFR 8.24]
- providing reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the IHA can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24]
- paying for a needed modification (e.g., access ramp to a unit) unless providing the accommodation would be an undue financial and administrative burden or a fundamental alteration of the program. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- ensuring that all new construction of housing facilities is readily accessible to and usable by persons with disabilities, and meets the requirements of applicable accessibility standards. [24 CFR 8.22 and 8.32]
- administering a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. [24 CFR 8.53]
- ensuring that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)]
- conducting any required needs assessments to determine the extent to which the housing needs of persons with disabilities are being met in the IHA's program and in the community. [24 CFR 8.25]
- distributing accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided to others. [24 CFR 8.26]
- adopting suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units. [24 CFR 8.27]
- conducting any required self-evaluations of programs, services, and activities to determine if they are accessible to persons with disabilities, and, when appropriate, involve persons with disabilities in these evaluations. [24 CFR 8.51]
- notifying participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. [24 CFR 8.54]
- maintaining records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if HUD conducts a compliance review, or is a complaint is filed. [24 CFR 8.55]

If there is a dispute between the Section 504 Coordinator and the IHA official responsible for the program in which the applicant/resident is requesting an accommodation, the requested accommodation and all relevant information will be forwarded to the Reasonable Accommodation Dispute Committee for evaluation and final decision. The Reasonable Accommodation Dispute Committee shall consist of the Section 504 Coordinator, the Assistant Director and the Programs Coordinator.

The Section 504 Coordinator will ensure that all appropriate staff members participate in Reasonable Accommodation Policy and Procedures training, including all applicable Federal, State and local requirements regarding reasonable accommodations, and that all staff members are kept informed of the current Fair Housing Policy of the IHA.

IV. REASONABLE ACCOMMODATION DEFINED

A “reasonable accommodation” is defined as a change, modification, alteration or adaptation in policy, procedure, practice, program, or facility that is necessary for a qualified individual with a disability to equally participate in, and/or benefit from, a program, service or activity of a Public Housing Authority.

An individual with a disability may request a reasonable accommodation at any time during the application process, residency in RAD PBV Housing, or participation in the Housing Choice Voucher Program of the Islip Housing Authority. A request for a reasonable accommodation may be made in writing, orally, or by any other equally effective means of communication. If the individual with a disability is unable to submit their request in writing, the Authority will assist the individual to reduce their request to written form. Decisions to approve or deny requests for reasonable accommodations shall be made on a case-by-case basis after reviewing the facts and circumstances of each individual request, and shall take into consideration the disability and the needs of the individual with the disability as well as the nature of the program or activity in which the individual seeks to participate.

The IHA will grant a request for a reasonable accommodation, unless the request is not reasonable; there is no nexus between the requested accommodation and the disability; granting such request would impose an undue administrative and financial burden upon the IHA; or granting such request would fundamentally alter the nature of the programs, services or activities of the IHA. In the event that the IHA denies a request for an accommodation, the Section 504 Coordinator will offer alternative possible accommodations, whenever feasible.

V. WHO MAY REQUEST A REASONABLE ACCOMMODATION

This Policy applies to the following individuals with a disability(ies):

- *Applicants for RAD PBV;
- *Applicants for the Housing Choice Voucher Program;
- *Residents of RAD PBV;
- *Participants of the Section 8 Housing Choice Voucher Program; and
- *Participants in all other programs or activities conducted or sponsored by the IHA and users of all non-housing facilities and common areas owned or operated by the IHA.

The definition of “disability” for purposes of reasonable accommodations is much broader than the HUD definition of disability. A person with a disability who may request a reasonable accommodation is an individual who has a physical or mental impairment that substantially limits one or more major life activity(ies), or who has a history of, or who is regarded as having, such an impairment. As used in this definition, the phrase “physical or mental impairment” includes:

- (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs;

respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

- (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

- (c) The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism, temporary impairments and chemical sensitivities.

Major life activities include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing and learning.

The definition of disability **does not apply** to any individual whose current use of alcohol prevents the individual from participating in the RAD PBV program or interferes with the rights of others; any individual who is currently engaged in illegal drug use; and any person with a disability who poses a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation.

VI. EXAMPLES OF REASONABLE ACCOMMODATIONS

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

1. Making a unit, part of a unit, or a public or common use area accessible for an individual with a disability;
2. Making an offer to transfer a resident with a disability to a comparable, appropriately sized housing unit with the required accessibility features;
3. Permitting a family to have a service or assistance animal necessary to assist a family member with a disability;
4. Allowing a live-in aide for a resident or program participant with a disability to reside in an appropriately sized housing unit;
5. Transferring a family that is participating in the RAD PBV program to a larger size unit to provide a bedroom for a live-in aide;
6. Transferring a family that is participating in the RAD PBV program to a larger size housing unit in order to provide a separate bedroom for the resident with a disability;
7. Transferring a resident with a disability that is participating in the RAD PBV program to a first floor unit or a housing unit that is completely on one level;
8. Making documents available in larger type or Braille;
9. Providing qualified sign language interpreters for applicant, resident or program participant meetings or conferences with the IHA staff, or at public meetings of the Board of Commissioners;
10. Installing strobe type flashing lights and other such emergency equipment for a family member with a hearing impairment;
11. Permitting an outside agency or family member to assist an applicant, resident or program participant with a disability in meeting screening criteria or meeting essential lease obligations;
12. Permitting requests for extensions of Housing Choice Vouchers if there is a difficulty in locating a housing unit with suitable accessible features or that is otherwise appropriate for the family that has a family member with a disability.

13. Approving a request for exception payment standard amounts under the Housing Choice Voucher Program in accordance with 24 C.F.R. §§ 8.28 and 982.504 (b)(2)

VII. REASONABLE ACCOMMODATION REQUESTS FROM RAD PBV APPLICANTS AND RESIDENTS

Each RAD PBV and Housing Choice Voucher Program applicant shall be provided with a copy of the Notice of Right to Reasonable Accommodation (FORM RA1). This notice shall be posted at all times in the Property Manager's office and the Islip Housing Authority's Administrative Office. Each resident shall be provided a copy of the appropriate notice upon request and with their lease renewal information or recertification information.

Individuals with disabilities may submit a reasonable accommodation request to the IHA or directly to the Section 504 Coordinator in writing, orally, or by any other equally effective means of communication. The IHA will provide the "Request for Reasonable Accommodation Form" (Request Form - FORM RA2) to all applicants, residents and program participants with disabilities who request a reasonable accommodation.

Additionally, the IHA shall make reasonable accommodations for applicants with disabilities during the application process. Applications shall be taken in an accessible location, manner and format. Individuals with disabilities shall be provided, upon request, the appropriate auxiliary aides and services, including qualified sign language interpreters and readers during the housing application process.

The IHA shall provide a Request Form to any applicant upon request. The Request Form shall be provided in alternate accessible formats upon request. The IHA will ensure that all reasonable accommodations requests are reduced to writing. If necessary, as a reasonable accommodation, the IHA will assist the individual in completing the Request Form.

If during the eligibility review process the IHA receives unfavorable information about an applicant who is an individual with a disability, before a final determination on eligibility is made, the applicant shall be advised of his/her right to submit any additional documentation or information for the IHA to consider as evidence of mitigating circumstances or as the basis for granting a reasonable accommodation. A Letter Advising Applicants of Mitigating Circumstances and Reasonable Accommodation (FORM RA5) and a Request Form (FORM RA2) shall be sent to the Applicant within 5 days of receipt by the IHA of the unfavorable information. If the applicant wishes to submit a Request for Reasonable Accommodation, applicant shall do so as soon as possible but in any case no later than 30 days from the date of receipt of the notification by the IHA.

The Request Form and Notice of Right Form shall be given to all residents and program participants during annual re-certification, and at any time upon request. Residents or Applicants may contact the Section 504 Coordinator directly at (631) 589-7100 x226, or at NY RELAY 7-1-1 for those persons with hearing or speech impairments, to request an accommodation at any time.

PROCESSING A REQUEST

1. Within five (5) days of receipt by any IHA employee, a Request or Request Form shall be forwarded to the Section 504 Coordinator.

2. Within fifteen (15) days of receipt of a Request or Request Form, the Section 504 Coordinator will take one of the following actions:

- a. ask the requesting individual to complete Request Form (FORM RA2) if none has been completed, or offer assistance completing the form, or completing the form if necessary. Once a request has been reduced to writing on FORM RA2, the Section 504 Coordinator will take one of the following actions within 15 days:
- b. contact the knowledgeable professional named by the individual requesting the accommodation to verify the disability-related need for the requested accommodation (FORM RA3) and notify the requesting individual of this action (FORM RA4);
- c. notify the requesting individual in writing of the need for additional information or documentation and of a reply date fifteen (15) days from the date of the notice (FORM RA6).

A request will not be initially denied due to failure to respond to FORM RA6. If the required information is not received within the allotted time, the 504 Coordinator will give a second notice of an additional fifteen (15) days to submit the outstanding information or documentation (FORM RA7). This second notice requesting outstanding documentation will be the final notice. If there is no response to the second notice, no further action will be taken on the Request for Reasonable Accommodation until the IHA is contacted by the requesting individual;

- d. notify the requesting individual that the request is approved either verbally or in writing (FORM RA11, FORM RA12 or FORM RA13) and of the next step in the process.
- e. If the accommodation requested is a modification, a work order shall be generated once a request is approved and such accommodation shall be implemented promptly, within 30 days; or
- f. notify the requesting applicant or resident, or program participant that the request is denied and the reason for the denial (FORM RA14, FORM RA15);

If an alternative accommodation is offered, the IHA will advise the requesting individual of the anticipated time within which this accommodation will be provided. In order to accept this offer of an alternative accommodation, the resident must sign the offer letter and send the signed letter to the Section 504 Coordinator within fifteen (15) days of the date of the letter. The resident may also contact the Section 504 Coordinator and request a meeting to discuss the alternative accommodation.

3. When a request is made by a RAD PBV resident for a specific modification to a unit, and the verification of the disability is already contained within the file maintained by the IHA, or the disability and the need are readily apparent, and the modification is a routine matter which can be accomplished simply through the issuance of a work order, the request may be granted and the decision on the request may be noted on the Request Form (FORM RA2) and a copy of the work order attached. Similarly, when the reasonable accommodation requested is assistance which can be rendered by an IHA staff member in the course of his or her duties, and the verification of the disability is already contained within the file maintained by the IHA, or the disability and the need are readily apparent, the request may be granted and the decision noted on the Request Form.

4. If an applicant or resident with a disability makes an additional request for a different reasonable accommodation, the request is viewed and processed as a new request for reasonable accommodation.

VIII. REQUESTS FOR REASONABLE ACCOMMODATION FROM HCV PROGRAM PARTICIPANTS

Requests for reasonable accommodations by HCV applicants and program participants which the IHA has the ability to approve or deny include

- requests for additional bedrooms;
- approval of exception payment standards;
- voucher extensions;
- modifications to a common area or public use area of the IHA; or
- changes to an IHA policy

and are accepted and processed in the same manner as requests by applicants or RAD PBV residents. HCV program participants' requests and needs for additional bedrooms as reasonable accommodations are re-verified annually.

Requests by HCV applicants and program participants for modifications to a housing unit or a common area of a housing complex or home under the HCV program must be made directly to the landlord and the IHA may not implement such requests. The HCV applicant or program participant should work with her landlord to have reasonable modifications made to her housing unit. When the landlord agrees to allow the reasonable modifications to his property, but will not fund the modification expense, the following may be means of implementing the modifications:

1. Social service agencies may assist with the needs of individuals with disabilities. IHA may provide the program participant a list of the Islip area agencies that may offer these services.
2. The program participant may be required by the landlord to pay for the modifications and to establish an escrow account with funds sufficient to cover the expense of returning the modified areas to their original condition when the program participant vacates the housing unit. Generally, no escrow account deposit is required for reasonable modifications to the public and common use areas of a development.
3. At the request of an HCV program participant, the Section 504 Coordinator will contact the program participant's landlord about the accommodation. If appropriate, the Section 504 Coordinator will encourage the landlord to make the requested reasonable accommodation/modification for the program participant.

PROCESSING A REQUEST

This section applies only to HCV applicants and program participants.

The following reasonable accommodation requests by HCV Program participants will be processed using the procedures for RAD PBV applicants and residents as set forth in **PROCESSING A REQUEST** in **Section VII** above:

- requests for additional bedrooms;
- approval of exception payment standards;

voucher extensions;
modifications to a common area or public use area of the IHA; or
changes to an IHA policy

When a program participant must move in order to avail herself of a reasonable accommodation, the IHA shall furnish a Moving Packet to the participant with the letter approving the request.

The Section 504 Coordinator may offer assistance to HCV applicants and program participants who request modifications to housing units or common areas of housing complexes or homes under the HCV program as follows:

1. Within five (5) days of receipt by any IHA employee, a Request Form shall be forwarded to the Section 504 Coordinator.
2. Within fifteen (15) days of receipt of a Request Form, the Section 504 Coordinator will take one of the following actions:
 - a. notify the HCV applicant or program participant in writing of the need to make such a request of the HCV landlord (FORM RA16);
 - b. provide to the requesting individual a list of Islip area Social Service agencies which may assist with the needs of individuals with disabilities; or
 - c. at the request of the HCV applicant or program participant, contact the landlord about the requested accommodation (FROM RA17).
3. If an applicant or program participant with a disability makes an additional request for a different reasonable accommodation, the request is viewed and processed as a new request for reasonable accommodation.

IX. VERIFICATION OF NEED FOR A REASONABLE ACCOMMODATION

The IHA may request documentation to verify that the person requesting an accommodation is a person with a disability and such person has a disability-related need for the requested reasonable accommodation. However, the Authority shall request only such documentation that is necessary to verify that the person requesting an accommodation is a person with a disability and such person has a disability-related need for the requested reasonable accommodation. The Authority shall not inquire as to the nature or extent of the disability. The following persons may provide verification that an individual with a disability has the need for the requested accommodations:

1. Physicians;
2. Licensed health professionals;
3. Professionals representing a social service agency;
3. Disability agencies or clinics; or
4. other **knowledgeable** professionals competent to render the opinion.

X. DENIAL OF REQUEST FOR ACCOMMODATION

Requested accommodations will not be approved if one of the following would occur as a result of such approval:

1. A violation of state and/or federal law;
2. A fundamental alteration in the nature of the RAD PBV program;
3. An undue financial and/or administrative burden to the Authority;
4. A structurally infeasible alteration; or
5. A housing unit alteration requiring the removal or alteration of a load-bearing structural member.

An accommodation is not required if it would pose a direct threat to the health and safety of other individuals or if it would result in substantial physical damage to the property of others.⁶ However, the “direct threat” must pose a significant risk that cannot be eliminated by the IHA through a change in policies, practices, or procedures, or by the provision of auxiliary aids or services.⁷ The IHA’s assessment must be individualized and based on current medical knowledge or the best available objective evidence.⁸ The IHA must consider the nature, duration, and severity of the risk, the probability that the potential injury will actually occur, and whether changes to policies, practices, or procedures will mitigate the risk.⁹

XI. REASONABLE ACCOMMODATION FOR LEASE VIOLATIONS AND EVICTIONS

When a resident with a disability engages in a lease violation, IHA management shall approach the situation as with any other resident except that IHA shall consider a request for a reasonable accommodation by the resident in order to comply with the lease.

At any tenant conference or informal hearing IHA management shall discuss the right to a reasonable accommodation with the resident and shall have the Request Form readily available. In addition, the Notice of Tenant Conference shall state that if the resident or a family member is a person with a disability, the resident has the right to request a reasonable accommodation if necessary to comply with the lease. However, the resident is still responsible for remaining compliant with the provisions of the lease.

If a disabled resident who has committed a lease violation requests an accommodation in order to comply with the lease, IHA management must consider the request, and must consider the likelihood that the problem will recur if the accommodation requested is granted. To this end, IHA may require the resident to provide additional information and documentation or verification. If the IHA finds, after an objective review of all the information presented, that the accommodation is not likely to resolve the problem, the accommodation request may be denied.

⁶ 42 U.S.C. §3604(f)(9).

⁷ 24 C.F.R. §9.131(b).

⁸ *Boston Housing Authority v. Emmitt Bridgewater*, 452 Mass. 833 (2009) (citing 24 C.F.R. §9.131©).

⁹ *Id.*

A resident has the right to refuse a reasonable accommodation or an offer of alternative reasonable accommodation made by the IHA, but if the resident is unable to comply with the lease or engages in behavior which violates the lease, IHA management may enforce the lease and seek any appropriate remedies including termination.

Where a resident faces eviction proceedings because of a lease violation(s) related to a disability, the resident shall be advised by the IHA of the right to request a reasonable accommodation. The Notice of Termination shall contain language that if the resident or a family member is a person with a disability the resident has the right to request a reasonable accommodation if necessary to comply with the lease.

XII. TRANSFER AS A REASONABLE ACCOMMODATION FOR A RESIDENT

When a RAD PBV resident requests a reasonable accommodation, the IHA may offer the resident the opportunity to transfer to another available, comparable, appropriately-sized unit with the required accessibility features as a reasonable accommodation. The resident may reject two offers to transfer before the resident's name is placed at the bottom of the waiting list for an accessible housing unit with the required number of bedrooms. If a resident rejects the transfer for a reason that is not in the control of the resident, their name will remain in the same location on the transfer waiting list.

The IHA maintains a waiting list for transfer requests for accessible, first floor and two bedroom units made by all RAD PBV residents by complex. Units which become available are offered to the residents on the waiting lists in accordance with the IHA Administrative Plan, and units offered as a reasonable accommodation shall be in accordance with the IHA Administrative Plan.

The IHA shall pay for any reasonable moving-related expenses of the family without a disability required to move out of an accessible unit or out of a unit in which the family is overhoused. This obligation is part of the IHA's duty to accommodate its residents with disabilities and to provide units with accessible features. Nothing contained in this paragraph is intended to modify the terms of the Authority's Tenant Assignment Plan and the residents' rights thereunder.

XIII. REASONABLE ACCOMMODATION REQUESTS FOR HOUSING CHOICE VOUCHERS PROGRAM PARTICIPANTS

1. When issuing a voucher as part of a reasonable accommodation, and upon request, the IHA will include a list of known current available accessible units. If requested, the IHA will also provide search assistance to the voucher holder by referring them to local organizations to assist them with their search for available, accessible housing.
2. The IHA will grant extensions beyond the maximum voucher term of 180 days as a reasonable accommodation to eligible individuals with verified disabilities. These extensions are subject to documentation that the resident/applicant has made a diligent effort to locate an accessible unit, taking into consideration any impediments to searching because of a family member's disability.

3. Upon request by a qualified applicant, participant, or their representative, the IHA will ask the HUD Field Office for an exception payment standard up to 120% of the Fair Market Rent (FMR). However, the qualified applicant, participant or their representative, must provide Islip Housing Authority documentation of the need for the exception payment standard.

4. In exceptional cases, the IHA may ask the Assistant Secretary for Public and Indian Housing of HUD for an exception payment standard amount over 120% of the FMR, provided the qualified applicant, participant or their representative provides the necessary and appropriate supporting documentation.

XIV. LIVE-IN AIDE AS A REASONABLE ACCOMMODATION

A person with a disability may request a live-in aide as a reasonable accommodation. The IHA shall consider such request in accordance with the IHA's policy for live-in aides, which is incorporated herein by reference and can be found set forth in the Administrative Plan.

A live-in aide is defined as a designated person who resides with one or more elderly individual(s) or individual(s) with a disability who is determined to be essential to the care and well-being of said individual; who is not obligated for the support of said individual; and who would not be living in the unit except to provide necessary supportive services.¹⁰ In accordance with this definition, a live-in aide is not a member of the assisted family and is not entitled to the RAD PBV unit or HCV as a remaining family member of the resident family or program participant family.

The IHA must conduct a background investigation on any person sought to be approved as a live-in aide. The IHA may disapprove such person if he/she has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal Housing Program; committed drug related criminal activity or violent criminal activity; or currently owes rent or other money to the IHA or another HA in connection with RAD PBV or Section 8 assistance under the 1937 Act.¹¹ See Form Appendix for necessary Live-in Aide Agreement and Lease Addendum (FORM RA8) and Authorization (FORM RA9).

XV. SERVICE OR ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION

Assistance animals are animals that work for, provide assistance for, perform tasks for, or provide emotional support for a person with a disability. A person with a disability may request a service or assistance animal as a reasonable accommodation. The IHA shall consider such request in accordance with the IHA's policy for Service Animals, which is incorporated herein by reference and is set forth in the Admissions and Continued Occupancy Policy.

Service animals are not pets and therefore are not subject to the IHA's pet policy. However, service animals are subject to local ordinances governing licensing of animals, and the resident is responsible

¹⁰ 24 C.F.R. 5.403

¹¹ 24 C.F.R. 982.316

for care and supervision of the service animal at all times in a manner that complies with state and local laws, including anti-animal cruelty laws. The IHA may refuse to allow a service or assistance animal if there is reliable objective evidence that the animal poses a direct threat to the health and safety of others, or would cause substantial physical damage to the property of others. When a resident's care or handling of a service or assistance animal violates laws or IHA policies, the IHA will consider whether the violation may be reduced or eliminated by a reasonable accommodation. If the IHA determines that no such accommodation can be made, the IHA may withdraw approval of a particular service or assistance animal.

Though the IHA may not charge a deposit for a service animal, a resident is liable for any actual damages the service animal may cause.

XVI. THIRD PARTY REPRESENTATIVES

Any individual who makes a reasonable accommodation request may authorize a third party to act on his or her behalf in dealing with the IHA and the verifying knowledgeable professional.

Upon presentation of appropriate authorization, the third party representative may complete and sign the Request for Reasonable Accommodation on behalf of an individual with a disability. An authorized third party representative shall be given access to all documents and communications which relate to the request for reasonable accommodation.

XVII. CONFIDENTIALITY

Except as provided below, all information submitted to the IHA by a person requesting a reasonable accommodation on the basis of disability or by any verifying knowledgeable professional which relate to the nature or extent of the disability shall be kept confidential and shall be used solely to make a determination on the request. The protection of confidentiality shall extend to all information contained within applicant/resident/program participant files, reasonable accommodation request logs and all other IHA files which relate to the nature or extent of an individual's disability.

All IHA decisions on requests for reasonable accommodations shall be kept confidential except insofar as disclosure is necessary to implement an approved accommodation or to comply with the review and appeals procedures of the IHA.

Nothing in this paragraph shall preclude the IHA from providing such information and documents to Federal, state and local civil rights enforcement agencies as authorized by law.

An individual requesting an accommodation based on disability shall, upon request to the IHA, be entitled to copies of all documents in their IHA file which relate to their reasonable accommodation request in accordance with applicable law. In addition, an authorized third party representative of a requesting individual with a disability shall be given access to the same documents and information as the individual with a disability.

XVIII. GRIEVANCE PROCEDURE/RIGHT TO APPEAL

1. A RAD PBV applicant or resident may file a complaint in accordance with the IHA Grievance Procedure, which is set forth in the Administrative Plan and is incorporated by reference herein, following a formal determination by the Section 504 Coordinator. The Section 504 Coordinator shall attend all grievance conferences and hearings and advise on the IHA's 504 Reasonable Accommodation Housing Policy and Procedures and the relevant United States Department of Housing and Urban Development regulations.
2. The Housing Choice Voucher Program applicant or participant may file a request for an informal review or hearing with a Hearing Officer. The Section 504 Coordinator shall attend informal reviews or hearings at the request of the Hearing Officer., attend all hearings and will advise on the IHA's 504 Reasonable Accommodation Housing Policy and Procedures and the relevant United States Department of Housing and Urban Development regulations.
3. An applicant, resident or program participant may exercise his or her right to appeal an IHA decision through the local HUD office or the Division of Human Rights at any time. Contact information for these local offices is as follows:

United States Department of
Housing and Urban Development
New York City Field Office
26 Federal Plaza, Room 3541
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XIX. IMPLEMENTATION OF SECTION 504 REASONABLE ACCOMMODATION POLICY AND REVIEW

The IHA shall implement the policy set forth herein upon formal approval by the Board of Commissioners. The IHA shall review the policy at least on a yearly basis to ensure that the needs of the applicant, resident and tenant families with disabilities are being served. The IHA may make interim assessments of this policy and implement changes, upon approval of the Board of Commissioners, if necessary and appropriate.

Upon the formal approval of this Plan, and on a regular basis thereafter, the entire staff of the IHA shall receive in-house Fair Housing Training, with additional training for management, through the Fair Housing Law Institute, or other designated independent training firm, in order to ensure that all staff members are aware of the proper protocol and procedures for addressing fair housing issues with applicants, residents and HCV Program participants.

XX. RECORD KEEPING

The IHA shall maintain in the individual file of any applicant or resident who requests a reasonable accommodation a copy of the following in accordance with the File Maintenance Policy of the IHA: Request for Reasonable Accommodation; Denial or Approval Notice; any final decision following an informal hearing; any settlement agreement; any decision of a Hearing Officer or Panel following a grievance; any decision of an administrative agency or court; documentation that an approved accommodation has been implemented; and all correspondence between the IHA and verification sources concerning the requested accommodation.

In addition, beginning with the fiscal year commencing July 1, 2012, and for every fiscal year thereafter, the IHA shall maintain a separate and distinct log organized chronologically by fiscal year, containing a record of all reasonable accommodations requested and the decisions on those requests. Once the IHA has accumulated five fiscal year logs, the IHA shall maintain a log for the 5 fiscal years immediately preceding the current fiscal year.

XXI. TRANSITION PLAN

The IHA has followed the spirit of the policies and procedures set forth in this Section 504 Reasonable Accommodation Plan. Prior to the codification and implementation of this Plan, the following procedures were in place:

Applicants, residents and program participants are notified of their right to request a reasonable accommodation both in writing and verbally.

Reasonable accommodation requests are accepted in any written form by IHA staff, or are put in writing by IHA staff if necessary. IHA communicates with applicants, tenants and program participants in writing with respect to requests for reasonable accommodations but not with standardized forms.

Requests for reasonable accommodations are fielded by occupancy technicians, maintenance and office staff, and are responded to within a reasonable amount of time. Requests for modifications are generally responded to promptly, with a work order drawn up usually within a day or two of the request of the request. However, except for the work order generated, there is not usually a written record of the RA request, and no centralized location or tracking system where all RA requests and decisions can be easily located and viewed.

An individual whose request for a reasonable accommodation is denied is given the opportunity to discuss the denial with the IHA and is informed of the grievance procedures of the IHA. When a request is denied, the IHA makes every effort to engage in a dialogue with the requesting individual; this includes proposing alternate reasonable accommodations.

The IHA maintains records of the reasonable modification requests granted and implemented, though not in a separate and distinct reasonable accommodation log.

Some IHA employees have been trained to comply with the fair housing policies of the IHA and are trained to handle and process reasonable accommodation requests.

This Section 504 Reasonable Accommodation Plan identifies outlines current IHA Reasonable Accommodation Plan and Policy and sets forth the implementing procedures thereof.

In addition to initial staff training, FORM RA18 sets forth the procedure to be followed for insuring that RA requests are reduced to writing and that the logging/tracking system is implemented and followed consistently.

XXII. PLAN APPROVAL

The Town of Islip Housing Authority Section 504 Reasonable Accommodation Plan is reviewed annually and approved as necessary by the Board of Commissioners.

APPENDIX

IHA REASONABLE ACCOMMODATION FORMS

- RA1 - Notice of Right to Reasonable Accommodation
- RA2 – Request for Reasonable Accommodation
- RA3 - Verification of Need for a Reasonable Accommodation
- RA4 – Letter Advising Applicant That Verification is Being Sought
- RA5 – Letter Advising Applicant of Mitigating Circumstances and Reasonable Accommodation
- RA6 – Letter Requesting Additional Information
- RA7 – Letter Informing Applicant, Resident or Program Participant That Additional Information Requested (using FORM RA6) Has Not Been Received
- RA8 – Live-In Aide Agreement Lease Addendum
- RA9 – Authorization for Release of Information for Live-In Aide
- RA10 - Letter Advising Applicant, Resident or Program Participant that Information Received by the Islip Housing Authority Does Not Support a Need for the Accommodation Requested
- RA11 - Letter Approving Applicant's or Resident's Request for Reasonable Accommodation
- RA12 - Letter Approving HCV Program Participant's Request for Reasonable Accommodation (*when moving might be necessary*)
- RA13 - Letter Approving HCV Program Participant's Request for Reasonable Accommodation
- RA14 - Denial of Applicant's or Resident's Request for Reasonable Accommodation
- RA15 - Denial of Section 8 Program Participant's Request for Reasonable Accommodation
- RA16 – Letter Advising Program Participant that Landlord is Appropriate Party to Receive Modification Request
- RA17 – Notification Letter to Landlord Regarding Tenant's Request for Reasonable Accommodation
- RA18 - New Reasonable Accommodation Request Procedures for Staff