

Know Your Rights

Housing Tenants with Live-In Aides

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Whether you're a renter or a landlord, know the housing rights of a tenant with a disability that has a live-in aide.

What is a live-in aide?

A live-in aide is a person who lives with an elderly person or person with a disability. They are needed to care for the person. Generally, they would not be living in the unit except to provide care for the person.

What laws protect the rights of tenants with disabilities to have live-in aides in their home?

The Fair Housing Act and Section 504 of the Rehabilitation Act are two laws that protect the rights of tenants to have a live-in aide. Section 504 only applies to housing providers that receive federal financial assistance or public housing. The Fair Housing Act applies to both private and public housing.

I need caregiving services overnight. Can my landlord deny me a live-in aide because the lease limits overnight guests? Can my landlord require that my aide be added to the lease as a resident?

You can request a reasonable accommodation under the Fair Housing Act to make an exception to the landlord's policy that limits overnight guests. Your landlord cannot require that your aide be added to the lease as a resident.

What is a reasonable accommodation?

A reasonable accommodation is a change to a rule, policy, practice, or service that may be necessary for a person with a disability. It provides the person an equal opportunity to use and enjoy a home.

How do I make a reasonable accommodation request?

To request a reasonable accommodation a tenant or applicant must contact their housing provider. The individual can make the request orally or in writing. The request should explain what the accommodation is and why it is needed. It is better to put it in writing.

You may need to:

- » explain the connection between the requested accommodation and your disability
- » provide a medical verification letter from a social worker, medical provider, or other professional

Reasonable accommodation requests are considered on a case-by-case basis. They are often best worked out through an interactive process between the landlord and the tenant.

When you make a reasonable accommodation request, you may want to request a written response in 10-14 days.

Can my landlord perform a criminal history check or credit check on my live-in aide?

Your landlord can perform a criminal background check on your live-in aide. However, the landlord cannot perform a credit check. That is because a live-in aide does not have to pay rent, so their credit history does not matter.

What if I live in subsidized housing that limits the size of my dwelling unit, but I need an extra room for my live-in aide?

You can make a reasonable accommodation request that the housing authority permit an extra room for the live-in aide. The housing authority must then count the live-in aide when determining unit size.

Can my landlord include my live-in aide's income when calculating my household income in subsidized housing programs?

No. Live-in aides are not treated as household members. Their income is not included as part of the household income.

Can a relative be considered a live-in aide or are they a household member?

A relative may be considered a live-in aide, if they meet the definition of a live-in aide from the first question above.