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# FAIR HOUSING CENTER OF THE LEGAL AID SOCIETY OF SAN DIEGO, INC.

## - FAIR HOUSING NEWSLETTER -

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### What Can a Housing Provider Ask You About Your Disability?

Once you have asked your housing provider for a reasonable accommodation based on your disability, what kind of verification can the housing provider ask of you, if any?

The Joint Statement of the Department of Housing and Urban Development and the Department of Justice provides clarification.

If the disability and the need for the reasonable accommodation is obvious then:

A provider is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability. If a person's disability is obvious, or otherwise known to the provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information about the requester's disability or the disability-related need for the accommodation.

*Example:* An applicant with an obvious mobility impairment who regularly uses a walker to move around asks her housing provider to assign her a parking space near the entrance to the building instead of a space located in another part of the parking lot. Since the physical disability (i.e., difficulty walking) and the disability-related need for the requested accommodation are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested accommodation.<sup>1</sup>

If the disability is obvious, but the need for the reasonable accommodation is not then:

If the requester's disability is known or readily apparent to the provider, but the need for the accommodation is not readily apparent or known, the provider may request only information that is necessary to evaluate the disability-related need for the accommodation.<sup>2</sup>

*Example:* A blind tenant was living in a one-bedroom apartment. He requested to be moved to a two-bedroom apartment for his disability. The housing provider requested verification that the two-bedroom apartment was needed for the tenant's disability. The tenant's doctor wrote a letter to the housing provider stating that the tenant required a live-in

aid and needed to be moved to a two-bedroom apartment to have space for the live-in aid. Here, the housing provider was able to ask for verification for the reasonable accommodation request because needing a two-bedroom apartment was not obvious. The doctor's letter explained why the tenant needed a two-bedroom apartment, so the reasonable accommodation has been sufficiently verified.<sup>3</sup>

If the disability and the need for the reasonable accommodation are both not obvious then:

. . . Housing provider may request reliable disability-related information that (1) is necessary to verify that the person meets the Act's definition of disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities), (2) describes the needed accommodation, and (3) shows the relationship between the person's disability and the need for the requested accommodation.<sup>4</sup>

### Who is considered a third party in the position to know?

The verification in most cases comes from a physician, psychiatrist, psychologist, therapist, or other medical professional. However, the Fair Housing Act allows anyone who is in the position to know about the individual's disability to provide verification. It could be a peer support group leader, non-medical service agency, a parent, or family member. It does not even have to a person in some cases, it could be "proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits."<sup>5</sup>

**For More Information please call:**

**The Legal Aid Society of San Diego, Inc.**

**(844) 449-3500  
1-877-734-2929 TTY**

**[www.lassd.org](http://www.lassd.org)**

**The Legal Aid Society of San Diego Inc. offices are  
accessible to persons with disabilities**

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<sup>1</sup> The Joint Statement of the Department of Housing and Urban Development and the Department of Justice.

<sup>2</sup> *Id.*

<sup>3</sup> Example based on *Sudduth v. Barefield*, 2009 U.S. Dist. LEXIS 89287 (C.D. Cal. 2009).

<sup>4</sup> The Joint Statement of the Department of Housing and Urban Development and the Department of Justice.

<sup>5</sup> *Id.*