

**SFHRC**  
**SECTION 504/ADA COORDINATOR DUTY DESCRIPTION**

**The Section 504 Coordinator is, at a minimum, responsible for:**

1. Coordinating and monitoring SFHRC's compliance with Section 504 and applicable Titles of the American's with Disabilities Act (ADA), as well as other civil rights requirements regarding discrimination and harassment based on disability;
2. Overseeing prevention efforts to avoid Section 504 and ADA violations from occurring;
3. Implementing SFHRC's policies and procedures for processing Requests for Reasonable Accommodations by qualified individuals with disabilities.

**Knowledge of Section 504/ADA Requirements**

1. Develop a working knowledge of current laws, regulations and guidelines related to disability discrimination.
2. Attend trainings on Section 504/ADA, as available, and provide training/guidance to staff, as needed.

**The Section 504/ADA Coordinator's Duties include the following:**

1. Provide information, as requested, to landlords, tenants and program participants and SFHRC staff regarding Section 504/ADA.
2. Revise policies and procedures related to Section 504/ADA, as necessary, to ensure they are up-to-date and consistent with current requirements under these laws.
3. Regularly review SFHRC's publications to ensure they include a consistent nondiscrimination statement with all of the necessary protected classes and the name and contact information of SFHRC's Section 504 Coordinator.
4. Ensure that applicants, tenants and program participants are notified of SFHRC's Policy of Nondiscrimination on the Basis of Disability.
5. Ensure that application packets, program eligibility determination packets and annual recertification packets contain information on SFHRC's Nondiscrimination Policy and information on requesting a reasonable accommodation by a qualified individual with disabilities.
6. Collect and maintain all Section 504 data, such as Section 504 plans, evaluation reports and related records, etc.
7. Coordinate due process hearings when requested.

## SIoux FALLS HOUSING AND REDEVELOPMENT COMMISSION REASONABLE ACCOMMODATIONS POLICY AND PROCEDURES

*“No otherwise qualified individual with handicaps in the United States...shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance...”*

### INTRODUCTION

The Fair Housing Act prohibits housing providers, such as the Sioux Falls Housing and Redevelopment Commission (SFHRC), from discriminating against applicants, residents or program participants because of their disability, or the disability of anyone associated with them, and from treating persons with disabilities less favorably than others because of their disability.

SFHRC will use the procedures outlined in this Policy to process requests for reasonable accommodations from qualified individuals with a disability, as defined in Section 504 of the Rehabilitation Act of 1973.

This Policy has been developed and implemented according to 24 Code of Federal Regulations, Part 8. In the event the federal regulations change the implementation of Section 504, those changes will take precedence over provisions of this Policy.

### POLICY STATEMENT

SFHRC is committed to ensuring that its policies and practices do not deny individuals with disabilities the opportunity to participate in, or benefit from, nor otherwise discriminate against individuals with disabilities in connection with the operation of SFHRC's housing services or other programs, solely on the basis of such disabilities. A qualified individual with disabilities (1) must be given opportunities equal to others, (2) must be given housing or benefits which are as effective as those given others (3) may not be given different or separate housing or benefits unless this is necessary to provide the person with a disability with housing or benefits that are as effective as those provided to others.

Therefore, if an individual with a disability requires an accommodation, such as an accessible feature or modification to SFHRC policy, SFHRC will provide such an accommodation, unless doing so would result in a fundamental alteration in the nature of the program or an undue financial or administrative burden. In such a case, SFHRC will attempt to make another accommodation that would not result in a fundamental alteration, undue financial or administrative burden.

SFHRC will employ four elements in considering requests for a reasonable accommodation to a qualified individual with disabilities:

- does the person's medical condition meet the definition of a qualified individual with disabilities under Section 504 of the Rehabilitation Act of 1973;
- is the accommodation requested in a way that a reasonable person would understand it was a request for a reasonable accommodation;
- is there a nexus (connection) between the request and the disability; and
- is the request reasonable?

SFHRC recognizes that it may not be able to approve every requested reasonable accommodation it receives. Each request will be considered on its own merits and information available to SFHRC at the time the request is received in its office. In contemplating requests for reasonable accommodations from qualified individual disabilities SFHRC will consider the scope of the job and established policies and/or practices. SFHRC does not have the authority to waive or make exceptions to federal statutes or regulations, state laws or local ordinances. In certain cases, SFHRC may determine that failure to abide by the terms of a Lease Agreement or their Family Obligations is a fundamental alteration to the program.

## **PURPOSE**

The intent of this Policy is to:

- communicate SFHRC's position regarding reasonable accommodations for persons with disabilities in connection with SFHRC's housing programs, services, and policies;
- establish a procedural guide for implementing such Policy; and
- comply with applicable federal, state and local laws to ensure accessibility for persons with disabilities to housing programs, benefits and services administered by SFHRC.

## **AUTHORITY**

The requirements of this Policy are based upon the following statutes, regulations and joint statements:

- Section 504 of the Rehabilitation Act of 1973,
- The Fair Housing Act;
- Title II of the Americans With Disability Act;
- Part 8, of Code of Federal Regulations, Title 24; and
- Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004.

## **COMMUNICATION WITH APPLICANTS, RESIDENTS AND PARTICIPANTS**

Information on the availability of SFHRC's Reasonable Accommodation Policy and Procedures will be posted in SFHRC's office, located at 630 South Minnesota Ave, Sioux Falls, SD, provided at the time of application; notice of rejection; notice of program or lease violation and notice of program or lease termination; at each annual recertification for continued participation in the program, and upon request. Upon request, this information will be provided in an equally effective format.

SFHRC is responsible for informing all residents that a request may be submitted for a reasonable accommodation for a qualified individual with a disability. All applicants, residents and program participants will be provided a copy of SFHRC's "Policy of Nondiscrimination on the Basis of Disability or Handicap" and a copy of the "Request for Reasonable Accommodation" form at the time of application and annual recertification. Any applicant, resident or participant may submit a request for a reasonable accommodation at any time.

## **DEFINITION OF A QUALIFIED INDIVIDUAL WITH DISABILITIES**

In processing requests for reasonable accommodations SFHRC will use the following definition to determine if the individual, for whom the request is made, is a qualified individual with disabilities as defined in Section 504 the Rehabilitation Act of 1973. A qualified individual with a disability includes a person with a physical or mental impairment that substantially limits one or more major life activities; a person who is regarded as having such impairment; or a person with a record of such impairment.

The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as physiological disorder, contagious disease, cosmetic disfigurement or anatomical loss in one or more systems; neurological, musculoskeletal, respiratory, cardiovascular, reproductive, digestive, genitor-urinary, hemic, lymphatic, skin or endocrine, orthopedic, Immunodeficiency Virus infection, visual, speech or hearing impairments,. Mental or psychological disorders include mental retardation, organic brain syndrome, mental or emotional illness and drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

The term “substantially limits” suggests that the limitation is “significant” or “to a large degree”.

The term “major life activity” means those activities that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for one’s self, learning and speaking.

A person who has used illegal drugs is covered if:

- s/he is recovering from the addictions, i.e., successfully completed a rehab program and is currently not using; or
- s/he is participating in a treatment program or self-help group and currently not using.

## **EXCLUSIONS UNDER FEDERAL LAW**

A person currently using illegal drugs is not a qualified individual with disabilities. In addition, if the illegal use of a controlled substance has occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem, the person will not meet the definition of a qualified individual with a disability or handicap.

An individual with a disability whose tenancy would constitute a “direct threat” to the health or safety of other individuals or result in substantial physical damage to the property of others is not protected by the Fair Housing Act unless the threat can be eliminated or significantly reduced by a reasonable accommodation.

“Direct threat” is defined as a significant risk of substantial harm to other people or physical damage to other people’s property. Examples SFHRC would consider a direct threat include but are not limited, to: aggravated assault, battery, felonious intentional damage to property, manslaughter, attempted murder, murder, rape, stalking, harassment, making threats, and arson. In determining a direct threat SFHRC will use factual evidence about a particular person’s behavior, not an assumption about all people with disabilities. SFHRC will document how it concluded the person would be a direct threat.

## **DEFINITION OF REASONABLE ACCOMMODATION/MODIFICATION**

A reasonable accommodation is a change in rules, policies, practices, or services when such accommodations may be necessary to afford...person(s) with [with disabilities] equal opportunity to use and enjoy a dwelling or participate in program/activities". In addition, in certain circumstances, the Fair Housing Act requires that SFHRC allow residents to make reasonable structural modifications to his/her unit and to public/common areas in a dwelling when those modifications may be necessary for person with a disability to have full enjoyment and use of a dwelling unit and premises. A reasonable accommodation will affirmatively enhance a disabled person's quality of life by alleviating the effects of the disability.

## **VERIFICATION OF QUALIFIED INDIVIDUAL WITH DISABILITIES AND NEED FOR REQUESTED ACCOMMODATION**

SFHRC must verify that the person's medical condition meets the definition of a qualified individual with disabilities and the nexus (connection) of the requested accommodation and the disability.

SFHRC will verify a person's disability only to the extent necessary to ensure that applicants are qualified for the housing for which they are applying; that applicants/program participants are qualified for deductions used in determining adjusted income; and that applicants/program participants who have requested a reasonable accommodation have a need for the requested accommodation. SFHRC will not require applicants/program participants to provide access to confidential medical records in order to verify a disability nor, will SFHRC require specific details as to the disability. SFHRC may require documentation of the manifestation of the disability that causes a need for a specific accommodation or accessible unit. SFHRC will not inquiry in the nature or severity of the disability.

SFHRC has determined that the following will constitute adequate verification:

- on letterhead, or SFHRC provided verification form;
- signed by a medical professional; and
- states nexus to the disability.

If a person's disability is obvious or otherwise known to SFHRC, and if the need for the requested accommodation is also readily apparent or known, then SFHRC will not request any additional information about the person's disability or the disability-related need for the accommodation.

If a person's disability is known or readily apparent to SFHRC, but the need for the accommodation is not readily apparent or known, SFHRC will request only information that is necessary to evaluate the disability-related need for the accommodation.

## **GENERAL PRINCIPLES**

1. SFHRC recognizes that the person requesting the reasonable accommodation is usually an expert in regard to his/her own disability and the accommodation that may be appropriate. Generally, SFHRC will presume the information provided by the person concerning his/her own need is accurate and the method proposed for accommodating that need is the most appropriate.

2. The procedure for evaluating and responding to requests for a reasonable accommodation will be a cooperative relationship between the disabled person and SFHRC; the process will not be adversarial.
  3. SFHRC prefers that requests for a reasonable accommodation be submitted to SFHRC on SFHRC's "Request for Accommodation" form. Using this form will help prevent misunderstandings regarding what is being requested, or whether the request was made.
  4. A person with a disability need not personally make the reasonable accommodation request; the request may be made by a family member or someone else who is acting on his/her behalf.
  5. If the request is not made on SFHRC's "Request For A Reasonable Accommodation" form the request must be made in a manner that a reasonable person would understand to be a request for an exception, change, or adjustment to a rule, policy, practice or service because of a disability.
  6. SFHRC will give appropriate consideration to reasonable accommodation requests even if the requester makes the request verbally or does not use SFHRC's "Request for Reasonable Accommodation" form or procedures for making such requests.
  7. If the accommodation is determined to be reasonable (see "Guidelines For Determining Reasonableness" of this Policy), SFHRC will approve the request.
  8. Where the reasonable accommodation is requested by an applicant in order to overcome negative information, by a program participant to meet one or more of its Family Obligations or by a resident in order to overcome a lease violation, SFHRC will make the following determinations:
    - the essential impact of the negative information, lease violation or Family Obligation;
    - the seriousness and its impact on SFHRC;
    - the effect the accommodation would have, i.e., could the person participate in the program with a reasonable expectation of success.
- If the requested accommodation is reasonable and produces a reasonable expectation of success, SFHRC will grant the request.
9. Reasonable accommodations will focus on the individual and will be designed to address each person's situation.
  10. In some cases, reasonable accommodations may be perceived as conferring a special advantage on a person with disabilities; however, SFHRC will not base their decision on how their decision will be perceived, but rather on whether the accommodation is effective in removing the barriers which inhibit a person with disabilities from accessing and using the housing programs.
  11. Communication under this Policy will be in plain language, in a format appropriate to meet the communication needs of the person with disabilities.
  12. Any meetings required by this Policy will be held in an accessible location.

## **SEQUENCE FOR MAKING DECISIONS**

1. SFHRC will determine if the applicant/resident/program participant is a “qualified individual with a disability or handicap”.
2. If SFHRC determines that the person requesting a reasonable accommodation is not a qualified individual with a disability or handicap, SFHRC is not obligated to make a reasonable accommodation and SFHRC may deny the request.
3. If SFHRC determines that the person requesting a reasonable accommodation is a qualified individual with a disability or handicap, SFHRC will proceed to the Guidelines For Determining Reasonableness section of this Policy.

If additional information is needed, SFHRC will either write the individual to request additional information, using the standard “Request For Information” letter or, SFHRC will request a meeting using the standard “Request For Meeting” letter.

If SFHRC determines that the request is not reasonable, SFHRC will deny the request. The applicant/resident/program participant will be provided a written copy of SFHRC’s denial. The applicant/resident/program participant will be given the opportunity to provide additional information for SFHRC’s reconsideration.

## **GUIDELINES FOR DETERMINING REASONABLENESS**

1. In accordance with General Principle #1, in most instances SFHRC will accept the judgment of the person with a disability that an accommodation is needed. However, SFHRC retains the option to require the person with a disability to show the need for an accommodation to enable him/her to access and use SFHRC programs.
2. In accordance with General Principle #1, in most instances SFHRC will accept the judgment of the person with disabilities that the requested accommodation is the most appropriate for him or her. Decisions regarding reasonable accommodations will be made in compliance with all applicable accessibility laws and requirements. Additionally, in those circumstances where SFHRC deems that a proposed reasonable accommodation would fundamentally alter the service, program or activity or would result in undue financial or administrative burdens, SFHRC has the burden of proving such results. SFHRC retains the option to investigate alternatives to the requested accommodation, and/or alternative methods of providing the requested accommodation.
3. If a number of potential accommodations will satisfy the needs of the person with a disability and are equally effective, SFHRC retains the option to select the accommodation which is most convenient and cost-effective for SFHRC. This includes the option to select a change in procedure or policy, rather than make a structural change, when the procedural change would be equally effective.

The following steps refer to requested accommodations which are needed, and which represent the most appropriate means of accommodating the disability:

4. SFRHC will determine if the requested accommodation constitutes a fundamental alteration to the program. The following factors will be used in making this determination:

- a. SFHRC will determine if the requested accommodation would (1) cause a substantial change in the primary purpose or benefit of a program or activity, i.e., changing a "regular housing program" into an enriched program by the addition of social services; or (2) be a substantial impairment of necessary or practical components required to achieve a program or activity's primary purpose or benefit, i.e., waiving screening criteria for an applicant, eliminating essential lease provisions for residents eliminating funds for critical repairs through the Capital Fund program.
  - b. SFHRC will determine if the request to adjust their rules, policies, practices or procedures is necessary to enable the qualified individual with a disability to have equal opportunity to use and enjoy the facilities or program; i.e., will the accommodation make it possible for a person with a disability to have full access to the housing program? Is the request something reasonable for SFHRC to do?
  - c. SFHRC recognizes that it cannot change, modify or waive federal regulations or statutes, state laws or city ordinances.
  - d. Accommodations that change the nature of the program are fundamental alterations and SFHRC will deny the request. Accommodations that create changes in the administrative elements of the program, will not be considered fundamental alterations.
5. SFHRC will determine if the requested accommodation creates undue financial and administrative burdens for SFHRC. If so, SFHRC will comply with the request only up to the extent that SFHRC can do so without creating undue burdens.

A. Factors to be considered in determining whether the requested accommodation would impose an undue financial hardship include:

- a. the size of the program budget;
- b. the number and availability of SFHRC employees. SFHRC will also consider using contract services to achieve the accommodation;
- c. in the current budget year, any serious negative impact on SFHRC's financial stability;
- d. expenditures that are beyond SFHRC's financial ability, even with an operating budget revision, because of limitations in the total amount of operating funds available to SFHRC and the other operating expenses SFHRC must incur during the operating period;
- e. in the current budget year, the ability of SFHRC to make a deposit to reserves where the level of reserves is at or below 25% of the required level;
- f. the requirement for additional withdrawals from reserve when, in the current budget year, SFHRC is running a budget deficit and other funds are not available to make the accommodation.
- g. expenditures that are beyond the amount programmed for accommodations in SFHRC's Capital Fund program, taking into account the need for the other work included in the Annual Statement and 5-Year Plan. In the event SFHRC determines that a physical modification is not reasonable solely because of cost and the resident, or an outside source, pays a sufficient portion of the cost, or the total cost, so the modification would no longer cause an undue burden, SFHRC will allow the modification. The modification must be in compliance with building codes and the unit must be restored to its original condition when the resident vacates the unit, if the modification interferes with marketability or the next resident's enjoyment of the unit.
- h. A significant change to SFHRC's five-year Capital Fund Plan, i.e., proposed accommodation requires that lead-based paint removal is deferred, repair of damaged roofs be postponed, or repair or replacement of life, health or safety systems postponed;
- i. The ability of SFHRC to complete planned improvements or repairs, including normal maintenance that is essential to maintaining decent, safe and sanitary living conditions;



- j. Substantial increases in administrative workload, ie, in the current budget year the accommodation affects program operations so SFHRC is unable to:
  - i) perform essential management duties as expressed in the lease, other contracts with program participants and HUD regulations (reexaminations, unit inspections);
  - ii) perform administrative or maintenance duties essential to the operation of the program (rent collection, routine or preventive maintenance);
  - iii) meet the program operating requirements as expressed in the Annual Contributions Contract, other agreements or the Public Housing Assessment Program (PHMAP) performance indicators; or
  - iv) respond to a court order.
- k. Negative impact on services provided by SFHRC and mandated by the lease or other agreements. (Excluding services provided by third parties where such services are not under direct control or funded by SFHRC's operating budget);
- l. Access to and availability of other funds.

B. Factors to be considered in determining whether the requested accommodation would impose an undue financial burden are as follows:

- a. A determination, by SFHRC, whether SFHRC has received Capital Fund Program funds for accommodations or transition plan improvements. Where there are conflicting demands on the budget, the following priorities will be followed:
  - i) reasonable accommodations for Public Housing residents;
  - ii) reasonable accommodations for applicants who are expected to move in during the year;
  - iii) transition plan activities.
- b. A determination by SFHRC, taking into consideration SFHRC's accessibility priorities, the status of any Capital Fund monies budgeted for accommodations or transition plan work.
- c. A determination on the status of funding if Capital Fund Program funds are budgeted for accommodations or transition plan work. SFHRC will check for:
  - i) capital Funds unobligated in other categories of work;
  - ii) proposed use of any unobligated funds;
  - iii) urgency of work;
  - iv) program impact, i.e., can this work be delayed or phased in over time without creating a serious negative impact on the Capital Fund program or causing significant departure from the 5-Year Capital Fund Plan.
- d. A determination whether SFHRC has budgeted operating funds for accommodations and the status of the budgeted funds.
- e. If there are no budgeted funds or all such funds are obligated, then SFHRC will consider whether make a deposit to reserves, make a withdrawal from reserves or break-even for the particular property.
  - i) If SFHRC projects there will be a deposit to reserves and there are no known demands against these funds, then the accommodation can be considered within the funds available.
  - ii) If SFHRC is withdrawing funds to meet its "normal" operating expenses SFHRC will not approve the request for an accommodation.
  - iii) If SFHRC projects a break-even budget, SFHRC may withdraw funds from reserves for purposes of providing a reasonable accommodation provided funds withdrawn do not reduce the reserves below 25% of the required level; and withdrawals do not seriously impact SFHRC's attempt to increase reserve levels required by HUD through PHAS.

## PRINCIPLES FOR REVIEWING AND WEIGHING APPLICANTS

Each applicant will be treated on his or her merits, without presumption of abilities based on race, color, religion, sex, national origin, disability or familial status recognizing that specific program requirements may limit participation under the law.

At the time of application, SFHRC will verify the applicant's disability as a condition of statutory eligibility in the context of rent determination, qualifying for specific developments or units or reasonable accommodations.

SFRHC will require all residents to meet performance-based standards for the occupancy of an assisted unit as stated in tenant/resident obligations section of the Lease Agreement.

SFHRC will employ "performance and behavior" admission requirements defined by SFHRC's Lease Agreement. Admission requirements will not be defined by the resident's presumed needs or by the biases of the other residents. SFHRC will not consider the "ability to live independently" as a factor in determining whether to rent a unit to an applicant.

Applicants screening methods will be targeted toward determining the likelihood that any applicant will be able to meet the essential requirements of tenancy as expressed in the Lease Agreement. The essential requirements are as follows:

1. to pay rent and other charges under the Lease Agreement in a timely manner;
2. to care for and avoid damaging the unit and common areas, to use the facilities and equipment in a reasonable way, to create no health or safety hazards, to report all maintenance needs;
3. not to interfere with the rights and enjoyment of others, and not to damage the property of others;
4. not to engage in criminal activity that threatens the health, safety, or right of peaceful enjoyment of other residents or staff;
5. not to engage in drug-related criminal activity on or near the premises;
6. to comply with necessary and reasonable rules and program requirements of HUD and SFHRC and health and safety codes.

Any initial evaluation of an applicant will be disability neutral not seeking any information beyond the minimum required to clarify specific eligibility and screening issues and not based on any disability-related presumption about the applicant's ability to meet the essential obligations of the Lease Agreement.

If any applicant with a disability or handicap cannot satisfy the requirements of tenancy because of previous rental history, SFHRC will, if requested by the applicant, consider whether mitigating circumstances related to the disability could be verified to explain and overcome the problematic behavior; and make a reasonable accommodation that will allow the applicant to meet the requirements.

SFHRC recognizes that a reasonable accommodation allows the applicant with a disability to meet essential requirements of tenancy; it does not require SFHRC to reduce or waive essential requirements. SFHRC and applicants will work together to identify specific accommodations that each accepts as reasonable.

SFHRC recognizes that accommodations are not reasonable if they require fundamental alterations in the nature of a program or impose undue financial and administrative burdens on SFHRC. SFHRC will not be required to

make specific accommodations or physical modifications if equally effective alternatives permit full program participation.

SFHRC will allow an applicant with a disability, who would otherwise be rejected objective screening criteria and asserts that mitigating circumstances would overcome or outweigh the negative information obtained in the screening, to verify the mitigating circumstances.

SFHRC will allow an applicant with a disability, who would otherwise be rejected based on objective screening criteria, asserts that s/he could meet the requirements of tenancy with assistance that SFHRC is not obligated to provide, to provided verification that the assistance will be provided and accepted and will allow the applicant to comply with the terms of the essential lease requirements.

## **INFORMAL REVIEWS AND HEARINGS**

### **INFORMAL REVIEW**

An applicant will be given the opportunity for an Informal Review of SFHRC's decision regarding their request for a reasonable accommodation for a qualified individual with disabilities. The following procedures will apply to the Informal Review process:

1. an Informal Review will be scheduled within fifteen (15) business days of the date of receipt of a written request from the applicant;
2. the review will be held on the date and at the time specified in the written notice to the applicant;
3. a SFHRC staff person, who was not involved in the initial review and not a subordinate of the person who made the decision, will conduct the Informal Review;
4. the applicant will be given the opportunity to present written or oral objections to SFHRC's decision;
5. SFHRC will notify the applicant, in writing, of results of the Informal Review within fifteen (15) calendar days after the review is held. This decision shall include a brief statement of the reasons for the final decision.

### **INFORMAL HEARING**

A qualified individual with a disability that is a participant/resident of a SFHRC owned/managed property or a participant of a SFHRC service or activity will be given the opportunity to request an Informal Hearing to dispute SFHRC's decision regarding their Request For A Reasonable Accommodation. The following procedures will be followed to conduct an Informal Hearing:

1. an Informal Hearing will be scheduled within fifteen (15) business days of the date of receipt of a request from the applicant or his/her representative. SFHRC prefers the request be made in writing to prevent misunderstandings regarding the request for a review, or whether the request for a review was received by SFHR. If the request is not made in writing, the request must be made in a manner that a reasonable person would understand it to be a request for a review of SFHRC's decision;
2. the Hearing will be held on the date and at the time specified in the written notice to the applicant and/or his representative;
3. a SFHRC staff person, who was not involved in the initial decision and not a subordinate of the person who made the decision, will conduct the Informal Hearing;
4. the participant/resident will be given the opportunity to present written or oral objections to

- SFHRC's decision. The participant/resident may, at their own expense, be represented by a Representative;
5. SFHRC will notify the participant/resident, in writing, of results of the Hearing within fifteen (15) calendar days after the Hearing is held. This Decision shall include a brief statement of the reasons for the final decision.

## **GUIDELINES FOR CONDUCTING AN INFORMAL HEARING**

The Hearing Officer will be responsible for conducting the Hearing in accordance with the following guidelines:

1. SFHRC's representative will be given the opportunity to explain their decision. SFHRC may present written evidence, oral information or provide witnesses to explain their decision;
2. the participant/resident will be given the opportunity to question SFHRC witnesses;
3. the participant/resident or his/her representative will be given the opportunity to present his/her objections to the decision in question, and only the specific decision pertinent to the Hearing;
4. the participant/resident or his/her representative may present evidence or question witnesses;
5. the Hearing Officer will issue a written decision stating the reasons for the decision, stating the reasons for the decision within thirty (30) days of the Informal Hearing.

SFHRC is not bound to an Informal Hearing Review or Hearing decision in the following circumstances:

1. If the Hearing Officer's decision is beyond the authority of the Hearing Officer, or
2. The Hearing Officer's decision is contrary to HUD regulations, Fair Housing law, state law or city ordinance.

## **GRIEVANCE PROCEDURE**

As an alternative to an Informal Hearing, a participant in a SFHRC program or activity may opt to use SFHRC's Section 504 Grievance Procedure. SFHRC has adopted an internal grievance procedure providing prompt and equitable resolution of complaints alleging action taken by SFHRC that is prohibited by the United States Department of Housing and Urban Development (HUD) regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

SFHRC's Section 504 grievance procedure has been constructed to protect the substantive rights of interested persons, meet appropriate due process standards and assure that SFHRC complies with Section 504 and its implementing regulations. Under HUD regulations, SFHRC's Section 504 Grievance Procedure does not pertain to complaints from applicants for employment.

SFHRC will use the following procedures to process complaints of SFHRC violations of Section 504:

A complaint may be filed in writing, verbally or via e-mail and must contain the name and address of the person filing it and a brief description of the alleged violation of Section 504. If filed verbally, the complaint must be stated in a manner that a reasonable person would understand the person is filing a complaint and the nature of the complaint.

A complaint must be filed within sixty (60) days after the complainant becomes aware of the alleged violation.

An investigation, as may be appropriate, will follow the filing of a complaint. This investigation will be conducted by the Section 504 Coordinator, or her designee. This investigation will be informal, yet thorough, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint. This investigation may include a conciliatory conference between the Section 504 Coordinator, of their designee, and the complainant, and/or their representative. Mediation may be offered to the complainant at this level.

A written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the 504 Coordinator, or her designee, within ninety (90) days of the complaint being filed with SFHRC. A copy of the determination and resolution, if any, will be forwarded to the complainant at their last known address.

SFHRC will maintain the files and records relating to the complaint for a period of three (3) years. After which they will be disposed of in a manner which insures confidentiality of the complainant.

The complainant may request a reconsideration of the case in instances where s/he is dissatisfied with the resolution. The request for reconsideration must be made within thirty (30) days of the date of the determination and resolution, if applicable, to Larissa Deedrich, Executive Director, SFHRC, at the same mailing address or phone numbers listed above. Requests for reconsideration may also be sent to Ms. Deedrich via e-mail at [l\\_deedrich@siouxfallshousing.org](mailto:l_deedrich@siouxfallshousing.org).

The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as filing a Section 504 complaint with the responsible federal department or agency.

Time frames outlined in this procedure may be subject to change in any given matter when essential individuals and/or information are not readily available.

Using this grievance procedure is not a prerequisite to the pursuit of other remedies.

Questions or concerns regarding this grievance procedure should be directed to SFHRC's Section 504 Coordinator using the contact information listed previously in this document.

### **MONITORING AND ENFORCEMENT**

SFHRC's HCV Manager is responsible for monitoring SFHRC's compliance with, and enforcement of, the requirements under this Policy. Questions regarding this Policy, its interpretation or implementation should be directed to: Lisa Bartell, HCV Manager, SFHRC, 630 South Minnesota Ave, Sioux Falls, SD 57104 in writing, or in person by appointment or by calling 605.332.0704, ext. 202 voice or 605.332.0256 TDD. Inquiries and questions may also be sent via e-mail to: [l\\_bartell@siouxfallshousing.org](mailto:l_bartell@siouxfallshousing.org).

### **STAFF TRAINING**

SFHRC'S Executive Director will ensure that training is made available to SFHRC staff regarding the Fair Housing law and reasonable accommodations to qualified individuals with disabilities.

## **POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY OR HANDICAP**

The Sioux Falls Housing and Redevelopment Commission (SFHRC) does not discriminate based on disability or handicap status in the admission or access to, or treatment or employment in, its programs or activities.

Lisa Bartell, HCV Program Manager, SFHRC, has been designated the Section 504 Coordinator for SFHRC. He is responsible for the coordination of compliance with the nondiscrimination requirements contained in the U.S. Department of Housing and Urban Development's (HUD) regulations implementing Section 504 (24CFR, Part 8 dated June 2, 1998).

### **REQUEST FOR A REASONABLE ACCOMMODATION**

If you need:

- a change in SFHRC policies or procedures
- a change to a SFHRC owned/managed unit or other part of the property.
- a change in the way SFHRC communicates with you.

because of a disability, you can ask for a change, which is called "reasonable accommodation".

If there is a relationship between your requested accommodation and your disability, if your request is reasonable and does not fundamentally alter the program and/or it is not too expensive, and if it is not too difficult to arrange, SFHRC will try and make the change you need. SFHRC must verify that your medical condition meets the definition of a "qualified individual with disabilities" and there is a disability related need for your requested reasonable accommodation.

A decision will be made by SFHRC as soon as possible, at least within thirty (30) days of receiving your written request, unless you agree to an extension of time. SFHRC will let you know if they need more information or verification from you or if they would like to discuss other ways of meeting your needs.

If SFHRC turns down your request, SFHRC will explain their decision and you may give SFHRC additional information. You will be provided with the opportunity for an Informal Review or Hearing on a decision to deny your request for a Reasonable Accommodation.

If you need assistance in making a "Request for A Reasonable Accommodation" please contact Ms. Bartell. You may reach her by writing to:

Lisa Bartell, HCV Program Manager  
Sioux Falls Housing and Redevelopment Commission  
630 South Minnesota Ave  
Sioux Falls SD 57104

Or by calling:                   Voice: (605)332-0704, Ext 202  
  TTD: (605)332-0256  
  FAX: (605)339-9305

Or e-mail:                       [L\\_bartell@siouxfallshousing.org](mailto:L_bartell@siouxfallshousing.org)

Equal Opportunity Provider/Employer