

RESOLUTION 2021-13
Authorizing and Adopting Amendments to Colville Indian Housing Authority's
Reasonable Accommodation Policy

WHEREAS, the Colville Indian Housing Authority is the duly constituted Housing Authority for the Confederated Tribes of the Colville Reservation, established by the Colville Business Council pursuant to the authority of the Constitution of the Colville Confederated Tribes, and in particular Article V, Section 1(a); and,

WHEREAS, the authorities and responsibilities of the Colville Indian Housing Authority are set out in the Colville Tribal Housing Authority Ordinance, adopted by Resolution 1977-59 of the Business Council; and,

WHEREAS, the purposes for which the Colville Indian Housing Authority was established include: (1) remedying unsafe and unsanitary housing conditions that are injurious to the public health, safety, and morals; (2) alleviating the acute shortage of decent, safe, and sanitary dwellings for persons of low income; and (3) providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings; and,

WHEREAS, the Colville Indian Housing Authority has been designated as the "Tribally Designated Housing Entity" for the Confederated Tribes of the Colville Reservation, as that term is defined at Section 4(21) of the Native American Housing Assistance and Self-Determination Act of 1996, P.L. 104-330 (25 U.S.C. 4101 - 4212), as amended ("NAHASDA"); and,

WHEREAS, the Business Council has appointed a Board of Commissioners to manage the Colville Indian Housing Authority (the "Board"), which Board operates pursuant to a Constitution and By-laws enacted by the Board on August 10, 2004 (as amended); and,

WHEREAS, the Colville Indian Housing Authority has previously adopted a Reasonable Accommodation Policy to address handicap accessibility issues in the rental program, and to comply with federal regulatory requirements; and

WHEREAS, On October 1, 2020 the Colville Indian Housing Authority assumed management of 20 tribal rental units from the Colville Tribes Public Works Department as directed by the Colville Business Council. The Colville Indian Housing Authority's management has reviewed the Reasonable Accommodation Policy, and, in consultation with the Housing Authority's legal counsel, has drafted proposed amendments to the Reasonable Accommodation Policy, which amendments are shown in redline on Exhibit A to this Resolution; and

WHEREAS, the Board has reviewed and has determined that adopting the proposed amendments to the Reasonable Accommodation is in the best interest of the Colville Indian Housing Authority; and

NOW, THEREFORE, BE IT RESOLVED, that the Colville Indian Housing Authority Board hereby approves and adopts the amendments to the Reasonable Accommodation Policy, as shown on Exhibit A to this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the amended Reasonable Accommodation Policy, attached as Exhibit A to this Resolution, shall supersede and replace any other policies addressing this same subject matter.

NOW, THEREFORE, BE IT FINALLY RESOLVED, that the Housing Authority Executive Director is hereby directed and authorized to take any and all steps to implement the amended Reasonable Accommodation.

CERTIFICATION

This is to certify that the foregoing was duly enacted, pursuant to Article V of the Colville Tribal Ordinance, ratified on January 27, 1977, at a regular meeting of the Colville Indian Housing Authority Board of Commissioners, held on March 18, 2021, a quorum being present, with a vote of 2 FOR; 0 AGAINST, and 0 ABSTAINED.

BY: DocuSigned by:

Brian Nissen

4/14/2021 | 8:16 AM PDT

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Brian Nissen, Chairman
Board of Commissioners

ATTEST:

DocuSigned by:

BY:

Storey Jackson

4/14/2021 | 8:16 AM PDT

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Storey Jackson, Secretary
Board of Commissioners

REASONABLE ACCOMMODATION POLICY

Purpose: CIHA does not discriminate against persons on the basis of disabilities. The purpose of this policy is to provide a process for responding to requests for reasonable accommodation from persons with disabilities.

Scope: This policy applies to all requests for reasonable accommodation made by persons with disabilities, whether they are tenants, homebuyers, or employees, provided that for tenants and homebuyers, this policy applies only to those dwelling units that are assisted with federal funds.

A. **SECTION 504 OF THE REHABILITATION ACT OF 1973:** Section 504 and its implementing regulations provide as follows:

1. No otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development.
2. The regulations implementing Section 504 require that a recipient of federal funds provide notice, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. The notification shall also include an identification of the responsible employee designated to handle such requests or concerns.
3. This policy is intended to be consistent with the requirements of Section 504 of the Rehabilitation Act of 1973 (as amended, 29 U.S.C. 794) and its implementing regulations.

B. **NEED FOR REASONABLE ACCOMMODATION:** The Colville Indian Housing Authority understands and recognizes the need to facilitate the provision of reasonable accommodation to eligible, qualified individuals with disabilities for its programs and employment. The Housing Authority will provide a Notice of Availability of Reasonable Accommodation and the Request for Reasonable Accommodation Form at the time of:

1. Application Intake (for homebuyers, tenants, and employees)
2. Orientation of New Residents and Employees
3. At any time the forms are requested.

C. **ELIGIBILITY CRITERIA:** To be eligible for services provided for reasonable accommodation, the applicant must meet the following eligibility criteria:

1. An employee or applicant for employment with CIHA who has been offered a position, **OR,**
2. A member of a household receiving housing services from CIHA, and must be listed on the following documents:
 - a. Application for housing assistance
 - b. CIHA Update form for Re-examination
 - c. The original Lease Agreement
3. Meet the applicable definition of Person with Disabilities.
4. Complete a Request for Reasonable Accommodation Form. CIHA will accept requests for accommodation verbally or in a manner which is different from the Request for Reasonable Accommodation Form if the applicant chooses to use an alternate form of communication. CIHA will complete the form based on alternative communication and **so note it on the form.**
5. Provide documentation which describes the need for reasonable accommodation. CIHA may require documentation of the functional limitation that causes a need for a specific accommodation or accessible unit, including confirmation from a physician. **CIHA will not ask what the disability is, require applicants to provide access to confidential medical records to verify a disability, or require specific details as to the disability.** All medical information obtained from the applicant/tenant will be considered confidential and maintained in the tenant file only for the purpose of assisting with eligibility determination

D. ELIGIBILITY DETERMINATION:

1. CIHA will respond, in writing, to all requests for reasonable accommodation by utilizing the Approval of Request for Reasonable Accommodation or the Denial of Request for Reasonable Accommodation form within thirty (30) days of receipt of a request.
2. If appropriate because of the nature of a person's disability, CIHA will use an alternative form of communication intelligible to the person making the request.
3. If CIHA does not have enough information to approve or deny the requested accommodation, CIHA will request a meeting to discuss the request. The request to meet will be made via written notice, or alternative communication forms as needed, to the applicant or resident.
4. CIHA will consider and respond to all individual requests for reasonable

accommodation from all applicants with disabilities.

5. CIHA will make every feasible effort to locate accessible units for persons who need the features of such units because of their disabilities.
6. CIHA will make every feasible effort to make reasonable accommodations for employees who request such accommodations.
7. CIHA will take reasonable, non-discriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility feature of a particular unit. To this end, when an accessible unit becomes vacant, before offering such unit to a non-disabled applicant, the CIHA shall:
 - a. First, offer the unit to a current occupant who requires the accessibility features of the vacant unit (if the current occupant does not have such accessibility features in their current unit).
 - b. Second, offer the accessible unit to a qualified applicant on the Waiting List who requires the accessibility feature.
 - c. Third, in the event a non-disabled individual is selected, they will agree to sign a contract rider to transfer if the unit is needed.
8. Approval for requests for reasonable accommodation will include a written summary of the implementation of the accommodation. This will outline the time frame for implementation, describe the terms, conditions, and performance expectations for all involved, and include a schedule for implementing the accommodation. CIHA will not charge applicants or tenants for reasonable accommodations nor will it require tenants to pay for the cost of removing accommodations or modifications **made or approved by CIHA** when the tenant vacates a unit.

E. **DENIAL OF ACCOMMODATIONS:** If CIHA denies a request for reasonable accommodation, such denial shall be provided in writing (or other intelligible form of communication, if necessary) to the applicant, and shall explain the reason for denial. Denial for requests for reasonable accommodations will be based on the following:

1. The applicant does not meet the definition of a person with disabilities; or
2. The accommodation has been determined not to be needed for the applicant to enjoy or participate in the program; or
3. The requested accommodation will result in a fundamental alteration of CIHA's mission and/or constitute an undue financial or administrative burden on CIHA.

F. **UNDUE FINANCIAL AND ADMINISTRATIVE BURDEN:** If a requested accommodation will create an undue financial and administrative burden for CIHA, the CIHA will comply with the request only to the extent it can without creating undue burdens.

- G. **TENANT DENIAL OF A UNIT:** An individual who is offered the opportunity for an accessible unit may deny the unit. In such a case, CIHA will have the resident or applicant sign a statement acknowledging that he or she was offered the unit and denied it.
- H. **APPEAL:** Applicants for reasonable accommodation under this policy have the right to review an unfavorable decision concerning an accommodation or choice of accommodation. Applicants may request an informal hearing with the Executive Director within ten (10) days of receipt of denial to discuss the unfavorable decision. The Executive Director will provide a written response (or other intelligible form of communication, if necessary) to the applicant within thirty (30) days after the informal hearing.
- I. **DEFINITIONS:**
1. Reasonable Accommodation means a modification or change in CIHA's policies, practices or services, which is necessary for an individual with a disability to benefit from or participate in CIHA's programs. CIHA reserves the right to investigate and offer equally effective alternatives to the requested accommodation.
 2. Qualified means meets the requirements for qualification for housing under CIHA policies without regard to disability.
 3. Disability means meets the definition of a person with disabilities under NAHASDA Section 4.17 and as stated in 24 C.F.R. Section 1000.10.
 4. Person with disabilities means a person who:
 1. Has a disability as defined in section 223 of the Social Security Act;
 2. Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act;
 3. Has a physical, mental, or emotional impairment which-
 - a. Is expected to be of long-continued and indefinite duration;
 - b. Substantially impedes his or her ability to live independently; and
 - c. Is of such a nature that such ability could be improved by more suitable housing conditions.
 4. The term "person with disabilities" includes persons who have the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome.
 5. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility under this policy, solely

on the basis of any drug or alcohol dependence.

6. For purposes of this definition, the term "physical, mental or emotional impairment" includes, but is not limited to:
 - 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; genito-urinary; hemic and lymphatic; skin; and endocrine; or
 - b. Any mental or psychological condition, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;
 - c. The term "physical, mental, or emotional 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, Human Immunodeficiency Virus infection, mental retardation, and emotional illness.

6. Fundamental Alteration means:
 - a. Actions that require substantial modification to, or elimination of, essential lease provisions or program eligibility or screening requirements based on the obligations of tenancy.
 - b. Actions that require CIHA to add supportive services (counseling, medical, or social services) that fall outside the scope of existing services offered by the housing authority to applicants or tenants.
 - c. Actions that require CIHA to offer housing benefits of a fundamentally different nature from the type of housing or benefits CIHA does offer.

7. Undue Financial or Administrative Burden: means an action requiring a significant difficulty or expense from CIHA, when considered in light of an individualized assessment of current circumstances and available resources. Undue financial burden is determined by taking into account the size and budget of housing, the type of housing, and/or the cost of the accommodation needed.