

1 **SUZANNE HEMPHILL:** Good afternoon, you're joining the reasonable accommodations and
2 accessibility training webinar presented by Texas Department of Housing and Community Affairs in
3 collaboration with the Texas Workforce Commission Civil Rights Division. We're going to get started in
4 approximately 10 more minutes. We had over 500 folks signed up for today, so we're going to give folks
5 some time to log in. The handouts for today's presentation are available through the go-to webinar
6 software panel. If you click on the orange arrow, you will see a bunch of drop downs. One of them says
7 handouts and there are five available. You can download those and follow along with today's
8 presentation.
9 We're going to get started in about 10 minutes.

10 **ED HILL:** And if you've had trouble downloading the reasonable modifications handout, please try
11 again. I just re-uploaded it, so it should be fixed.

12 **SUZANNE HEMPHILL:** Good afternoon. Thank you for joining our webinar series today. My name
13 is Suzanne Hemphill, Fair Housing Projects Manager at Texas Department of Housing and Community
14 Affairs. April is Fair Housing month and the department is hosting its Fair Housing webinar series.
15 Today's presentation is the second in our series during the month of April. We're so excited that many
16 of you have joined us this afternoon to cover the complex subject of reasonable accommodations and
17 accessibility. These materials are co-presented by the Texas Workforce Commission Civil Rights
18 Division. The webinar series is as follows:
19 Last week we covered Fair Housing and provided an overview for 90 minutes. Today we'll talk about
20 reasonable accommodations and accessibility. The information is located on the calendar portion of our
21 website and my contact information is here if you want to email me with any questions.
22 Today's webinar is recorded, and it will be available on the department's website under the Fair Housing

23 section. When the presentation is posted on the department's website we'll send a link out to all the
24 participants. It will take us about a month or so because we're going make this fully accessible so we'll be
25 creating a transcript to go along with this.

26 If you can't wait that long, the 2017, last year's webinar series, is currently available on our website.

27 We'll take a limited amount of questions today throughout the webinar. You can submit those via the
28 chat box. We'll try to answer them as we go and we have set aside some time towards the end of the
29 presentations to get to those as well. Attendees, you're on mute throughout the presentation. And our
30 contact information will be provided if you have follow-up questions that we don't get to today.

31 Included as a handout are the presentation slides. You can access the handouts through the control
32 panel and the go-to webinar software. So click on the orange arrow and then there's a bunch of different
33 drop-downs, and you can click on handouts. There are five handouts that you can download. It includes
34 the presentation slides, so today's presentation, joint statements from HUD and Department of Justice
35 on reasonable accommodations, a joint statement on reasonable modification and a HUD notice on
36 service animals and assistance animals. In addition, there's a handout with a flow chart of who pays for
37 reasonable accommodations and modifications depending on funding source. And that comes to us
38 from the San Antonio Fair Housing Council.

39 I promised you contact information and it is on this slide, email, addresses and phone numbers, if you
40 have follow-up questions. A lot of this is context specific so we will need a bit more information than
41 we might be able to get in just via the chat box today with your question.

42 Today's session, we're going to be presenting for around 75 minutes and we'll keep the last 15 minutes
43 for questions. It will be co-presented by Ed Hill and Chalisa Warren from the Texas Workforce
44 Commission Civil Rights Division. I'm Suzanne Hemphill. I work at the department and I work on all

45 things Fair Housing. I've been here for seven years working on single-family and multifamily programs
46 as well as with data and reporting projects.

47 I have my Master's of Urban Planning from the University of Illinois out of Urbana, Champagne. Ed
48 Hill has served as the Texas Workforce Commission Civil Rights Division training and outreach
49 specialist since December of 2017. Prior to joining the division, Ed held the division of project/senior
50 instructional designer at CSRA Incorporated, a federal contractor. There he oversaw research,
51 development, production, deployment and evaluation of instructor led and web based training materials
52 for the U.S. intelligence community, Department of Defense and federal law enforcement academies.
53 Ed is a U.S. Army veteran and a member of Disabled American Veterans and Veterans of Foreign Wars
54 organizations. He earned a Bachelor of Science degree from the American Intercontinental University in
55 Criminal Justice with a concentration in homeland security and emergency management.

56 Chalisa Warren joined the Texas Workforce Commission Civil Rights Division in March of 2015 as a
57 housing investigations supervisor. Before joining Texas Workforce Commission, Chalisa worked at the
58 city of Dallas Fair Housing office. She worked there as a Fair Housing Investigator and was promoted
59 to Senior Public Information Representative.

60 In that capacity she was responsible for coordinating and conducting Fair Housing training and outreach
61 within the city of Dallas. She earned her Bachelor of Arts in Political Science from Xavier University in
62 Louisiana - in New Orleans, Louisiana. She later earned her JD from John Marshall Law School in
63 Atlanta, Georgia. We're happy to have Ed and Chalisa here with us today. And I will turn it over to Ed.

64 **ED HILL:** Good afternoon. First I'd like to make a quick announcement. If you are taking this course
65 in response to a conciliation agreement, upon completion I ask that you contact your TWCCRD
66 investigator to let them know that you've completed the training, and we should have your name and,

67 we have your name and information on the log in screen here to verify your attendance at the course.

68 And with that announcement being complete, I'll pass you over to Chalisa, who will kick us off.

69 **CHALISA WARREN:** Okay, thank you, Ed.

70 **SUZANNE HEMPHILL:** Good afternoon, everyone. I think we are back and live. So sorry about the

71 disruption in our audio, our phone came out from the wall. So hopefully you're able to hear us now, and

72 I apologize for that. I just wanted to clarify that if you're trying to get credit for this, Texas Department

73 of Housing and Community Affairs are not able to issue certificates or verify your attendance. If you

74 have a conciliation agreement with Texas Workforce Commission Civil Rights Division and you need to

75 take a Fair Housing training, we will send a list of all of the participants over there and they can confirm

76 that if you have a conciliation agreement. Okay, and with that, Chalisa is going to take it over.

77 **CHALISA WARREN:** Thank you. First we'll discuss the mission and vision of the Texas Workforce

78 Commission Civil Rights Division. Our mission is to reduce discrimination in employment and housing

79 through education and enforcement of state and federal laws. Our vision is to help create an

80 environment in which citizens of the State of Texas may pursue and enjoy the benefits of employment

81 and housing that are free from discrimination.

82 What we'll discuss today are the objectives, we'll talk about the purpose of the Fair Housing Act and

83 Texas Fair Housing Act. We'll discuss reasonable accommodations. We'll have a few case scenarios and

84 then other accessibility issues, and then we'll conclude with mediation.

85 Today we'll identify the purposes of the Fair Housing Act, discuss the reasonable accommodations,

86 which include defining disabilities, recognizing a request for reasonable accommodations, and then

87 recognizing the appropriate responses for those reasonable accommodations. Identify some resources

88 and then also identify other accessibility issues.

89 So the purpose of the Texas Fair Housing Act, which mirrors the federal Fair Housing Act is to, within
90 constitutional limitations, provide for Fair Housing throughout the United States. The purpose of the
91 Texas Fair Housing Act is to provide for Fair Housing in the State of Texas, to create procedures for
92 investigations and settling complaints, and then also provides rights and remedies which are substantially
93 equivalent to the federal law.

94 So the protected classes are listed, they are race, color, national origin, familial status, religion, sex and
95 disability.

96 Because the Texas Fair Housing Act is substantially equivalent to the Fair Housing Act, it also gives
97 people with disabilities greater freedom to choose where they will live and greater freedoms to visit
98 friends and relatives. It is important to note that the Fair Housing Act uses the term handicapped
99 instead of disability, but for our purposes we will use the term disability.

100 The Texas Fair Housing Act also has the same broad implications in that it proactively addresses the
101 needs of an evolving population looking ahead at future needs. With the aging of the population and the
102 increase in incidents of disability that accompany aging, a significant number of people will be able to
103 remain in and safely use their dwellings longer.

104 For example, housing designed in accordance with accessible entrances, wider doors and provisions to
105 allow for easy installation of grab bars around toilets and bathtubs.

106 **SUZANNE HEMPHILL:** I want to highlight the incidence of disability in Texas, according to the
107 American Community Survey, 12% of Texans have a disability.

108 **CHALISA WARREN:** So how is a disability defined? Under the Acts, any person who has a physical
109 or mental impairment that substantially limits one or more major life activities. Note that the term does
110 not include current, illegal use of a controlled substance. The Fair Housing Act does protect person who

111 are recovering from substance or alcohol abuse.

112 Please note that 504 and ADA do have different definitions and one or more of those may apply in any
113 given circumstance.

114 So what are some major life activities? Things such as seeing, hearing, breathing, walking, caring for
115 one's self, speaking, and work.

116 While the Act does protect persons who are recovering from substance abuse, it does not again protect
117 persons who are currently engaging in the current illegal use of controlled substances. Additionally, the
118 Act does not protect an individual with a disability whose tenancy would constitute a direct threat to the
119 health or safety of other individuals or result in substantial physical damage to the property of others
120 unless the threat can be eliminated by reasonable accommodation.

121 If a question arises about whether an individual poses a direct threat, an individualized assessment must
122 be based on reliable objective evidence that considers the following: The nature, duration and severity of
123 the risk or injury, the probability that the issue will actually occur, and whether there are any reasonable
124 accommodations that will eliminate the direct threat.

125 Consequently, in evaluating a recent history of overt acts a provider must take into account whether the
126 individual has received intervening treatment or medication that has eliminated the direct threat.

127 In such a situation, the provider may request that the individual document how the circumstances have
128 changed so that he or she no longer poses a direct threat. A provider may also obtain satisfactory
129 assurances that the individual will not pose a direct threat during the tenancy.

130 The housing provider must have reliable, objective evidence that a person with a disability poses a direct
131 threat before excluding him or her from housing on that basis.

132 So what is a reasonable accommodation? Under the Texas Fair Housing Act, it is unlawful for any

133 persons to refuse to make reasonable accommodations in rules, policies, practices or services when such
134 accommodations may be necessary to afford a person with a disability equal opportunity to use and
135 enjoy the dwelling.

136 So why should a housing provider grant a reasonable accommodation? Because policies, practices and
137 services may have a different effect on people with disabilities. So treating persons with disabilities
138 exactly the same as others would sometimes deny them an equal opportunity to enjoy and use their
139 dwelling.

140 So the state and federal laws require that housing providers make reasonable accommodations to their
141 rules, policies, practices or services when those accommodations may be necessary to allow a person
142 with a disability to enjoy their dwelling.

143 **SUZANNE HEMPHILL:** Okay. So now we're going to pull up a couple of scenarios and Nathan is
144 going to run a poll that you can answer on your screen. So here's the scenario.

145 A housing provider has a policy of requiring tenants to come to the rental office in person to pay their
146 rent. A tenant has a disability that makes her afraid to leave her unit. Because of her disability, she
147 requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable
148 accommodation.

149 So what do you make of this request? Is it reasonable? So while the poll is open I'll read the question
150 again. We got some feedback on this last week. A housing provider's policy requires tenants to come to
151 the rental office in person to pay their rent. A tenant has a disability that makes her afraid to leave her
152 unit. Because of her disability she requests that she be permitted to have a friend mail her rent payment
153 to the rental office as a reasonable accommodation.

154 I would like you to vote and get some participation. It's an easy way for us to know if you're paying

155 attention and also figure out areas that we need to talk a little bit more about if there's a lot of confusion.
156 So, we've got four percent of folks so far unsure. That's fair. We're all here to learn.
157 Okay. We're going to close it. So 91% of folks said yes, that it was a reasonable accommodation. It's
158 considered reasonable.
159 So in this scenario the provider must make an exception to its payment policy to accommodate this
160 tenant.
161 All right. We're going to move on to another scenario. A tenant with a disability made a request for a
162 reasonable accommodation to the apartment manager for an early termination of her lease because she
163 was going to be hospitalized for treatment due to her disability. How should the manager respond? Is
164 this a reasonable request?
165 So again, Nathan is putting the poll up there. And the scenario is: A tenant with a disability made a
166 reasonable request for a reasonable accommodation to the apartment manager for an early termination
167 of her lease because she was going to be hospitalized for treatment due to her disability. Is this a
168 reasonable request?
169 Should they inquire about the nature of the tenant's disability? Deny the request? Grant the request? Or
170 require the tenant to document their disability?
171 Okay. We've got about 70% of folks voting. I'll give you a couple more seconds.
172 Okay. We're closing the poll. Let's see. Nine percent came in with inquiring about the nature of the
173 tenant's disability. Most folks required the tenant to document their request. Okay.
174 So -- this is a real life scenario that Texas Workforce Commission received.
175 Okay. So the correct answer here, 32% of folks said grant the request. So if this individual called you or
176 gave you verbal notification of this, they would not need to write it down. You could document it and

177 that would seem to be a best practice, but the individual does not have to document this.

178 And that's even especially if you're aware of their disability, if it's readily apparent to you, which we don't

179 really have all the context in this scenario.

180 So it would be to grant the request. In this scenario in real life the manager denied the reasonable

181 accommodation and they ended up settling. They agreed to refund the tenant's rent for three months.

182 The tenant agreed to vacate the unit and the property agreed to take Fair Housing training. So mistakes

183 like this in the end can get expensive.

184 Okay. So reasonable accommodation request guidelines. The requester must make the request in a

185 manner that a reasonable person would understand to be a request for an exception, change or

186 adjustment to a rule, policy, practice or service because of a disability.

187 The request does not have to be made in writing or on a certain form. So your property may have forms

188 available. An individual making a reasonable accommodation request does not have to use any magic

189 words or say reasonable accommodation. The request can be made on a behalf of a family member or

190 someone else who is acting on that person's behalf.

191 **ED HILL:** What inquiries can I make in a resident asks for a reasonable accommodation? A housing

192 provider may ask for information relevant to determining if a requested reasonable accommodation is

193 necessary because of a disability. For disability that is not obvious or the need is not obvious, a housing

194 provider may request reliable disability related information that is necessary to verify that the person

195 meets the Act's definition of disability, describes the needed accommodation and shows the relationship,

196 or nexus, between the person with the disability and the need for the requested accommodation.

197 A doctor or other medical professional, a peer, support group or a nonmedical service agency or reliable

198 third-party who is in a position to know about the individual's disability may also provide verification of

199 a disability.

200 **SUZANNE HEMPHILL:** Okay. So with that information we're going to head into scenario 3. A
201 rental applicant who uses a wheelchair advises a housing provider that she wishes to keep an assistance
202 dog in her unit even though her provider has a no pets policy. The applicant's disability is readily
203 apparent. This is a wheelchair user. But the need for the assistance animal is not obvious to the provider.
204 The housing provider may ask the applicant to provide information about the disability related need for
205 the dog.

206 So when Ed was talking about the nexus or the connection that's what he's talking about, this individual
207 established that there is a disability, they've requested to have a service dog, an exception to the no pets
208 policy, but the housing provider needs to understand the need for the animal.

209 **ED HILL:** What can't I ask? Reasonable accommodations. A housing provider may not ordinarily ask
210 the following, the nature and severity of an individual's disability. If an applicant has a disability or if a
211 person is intending to reside in a dwelling or anyone associated with an applicant has a disability.

212 Some examples of exceptions: If the housing provider offers accessible units to persons with disabilities
213 needing the features of these units on a priority basis. Or if the housing provider operates housing that
214 is legally limited to persons with a specific diagnosis such as a chronic mental illness.

215 **SUZANNE HEMPHILL:** Okay. We had a question come in. This is a squishy question like so many
216 of these are. So it is determined that an animal is present in a unit without prior authorization. A notice
217 was sent for a lease violation and upon research the unauthorized animal had been in the unit for a year.
218 So now the household is claiming that this is an emotional support animal. Under what circumstances
219 may a landlord deny the assistive animal?

220 **CHALISA WARREN:** So this is Chalisa with the Texas Workforce Commission and that is a great

221 question. We often get these issues. If the housing provider had issued a lease violation you can issue the
222 lease violation as it's an unauthorized pet, up until the point where you receive the documentation that it
223 is an assistance – or an emotional support animal.

224 So for example, just using your question as a hypothetical, if it's been occupied for a year, the lease
225 violation for the year can stand, but at the point that you get the documentation that it is an emotional
226 support animal it is no longer considered unauthorized at the time. It is now an emotional support
227 animal. So hopefully that makes sense to you. They could issue violations for the pet because it was
228 unauthorized. At the time that you had documentation that it is an emotional support animal, you can't
229 deny it.

230 **SUZANNE HEMPHILL:** Unless it meets one of the other things that we'll get into if it's like a
231 danger or a direct threat or something like that.

232 **CHALISA WARREN:** Oh, emotional support animal.

233 **SUZANNE HEMPHILL:** Do you want to clarify that?

234 **CHALISA WARREN:** For emotional support animals, we often get weight limitations. And the thing
235 about those are apartment complexes may have a policy and the most common one is that you can't
236 have pit bulls. As a pet maybe that's the case, but if a person has an emotional support animal that's a pit
237 bull and they need that particular animal, they provide you the documentation that they need that
238 emotional support animal, you can't deny it based on the breed alone.

239 Again, we get this often and most often times it is the myth behind the breed, but you can't just
240 systematically deny breed or weight limitations when it comes to emotional support animals only. You
241 can have a weight restriction for pets, but not for emotional support animals.

242 Now, granted you will have to have the documentation that the person has that disability and therefore

243 must be needing a service animal with their disability.

244 **SUZANNE HEMPHILL:** Okay. And another question came in. What if this is a city ordinance? So if
245 say there's a city ordinance that bans all pit bulls or something like that.

246 **CHALISA WARREN:** So there aren't any city ordinances that ban pit bulls. Again, I understand that
247 there is this -- I often say that this is a myth behind the pet or the breed, but city ordinances aren't that
248 overly restrictive for breeds.

249 **SUZANNE HEMPHILL:** Okay. So we're going to get back to the presentation and we'll circle back
250 to these questions and service animals. There's a lot here, there's a lot of specific questions that come
251 up. Feel free to download the service animal handout that comes from the U.S. Department of Housing
252 and Urban development. Service and assistance animals for people with disabilities in housing and HUD
253 funded programs from April 25th, 2013 that is attached to your handout.

254 Thank you, Chalisa. And Ed, take it over.

255 **ED HILL:** What should I do when I receive a request? First, review and ensure your reasonable
256 accommodations policy is consistent with the Acts and the HUD or DOJ memorandum on reasonable
257 accommodations.

258 You will accept verbal requests.

259 You will engage in the interactive process with the requester.

260 If the disability is not obvious or the need is not obvious, ask for appropriate, reliable disability related
261 information.

262 Provide prompt responses to reasonable accommodation requests and document your actions. Always
263 document your actions.

264 Other accessibility issues: Reasonable modifications, design and construction, terms, conditions or

265 privileges for sale or rental of a dwelling and provision of housing services or facilities.

266 The first issue, reasonable modification. Texas Property Code Chapter 301.025 (c)(1), a refusal to permit
267 at the expense of the person having the disability a reasonable modification of existing premises
268 occupied or to be occupied by the person if the modification may be necessary to afford the person full
269 enjoyment of the premises is discriminatory.

270 IE, let's say a tenant has a mother who comes and visits and she uses a wheelchair. The tenant requests
271 modification to build a ramp for the entry steps to his or her unit. It would be illegal to deny the request
272 if the tenant is going to do it at his or her own expense and will remove it when they move out.

273 A comment our investigators have noted housing providers have made to people with disabilities. We
274 can't install a ramp there, so you can't live in this complex.

275 In this case of the rental, the landlord, where it's reasonable to do so, may condition permission for a
276 modification upon the renter agreeing to restore the interior of the premises to the condition that
277 existed before the modification.

278 Reasonable wear and tear would be excepted. And that's Texas Administrative Code Section 819.133.

279 The next issue, design and construction requirements. Covered buildings should at least have one
280 building entrance on an accessible route unless it is impractical because of unusual characteristics to the
281 site.

282 And when we say covered buildings, this is referring to all covered multifamily dwellings that were built
283 for first occupancy after March 13, 1991.

284 Unusual characteristics have to be determined and documented before, not after the property is built.

285 Public and common areas that need to be accessible include: Laundry, fitness center, theater facilities,
286 playgrounds, fire alarms, mailboxes, storage areas, access to the pool, the activity center, dumpsters,

287 trash cans and other waste receptacles, light switches, electrical outlets, thermostats and other
288 environmental controls in accessible locations.

289 You must also have reinforcements in bathroom walls so grab bars can be added when needed.
290 And usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

291 **SUZANNE HEMPHILL:** Who pays? So this is a good question to consider for housing providers.
292 Housing providers may claim undue financial and administrative burden or that the requested
293 reasonable accommodation constitutes a fundamental alteration of the provider's operations. So the
294 following items would be considerations: The financial resources of the provider, the cost of the
295 reasonable accommodation, benefits to the requester of the requested accommodation, the availability
296 of other, less expensive alternative accommodations that would effectively meet the applicant or
297 resident's disability related needs.

298 The Fair Housing Act provides that while the provider must permit the reasonable modification, the
299 tenant is responsible for paying for the cost of the modification.

300 However, there's a series of questions to determine who pays for modifications. There are probably a
301 number of folks on the call today that participate in TDHCA programs, including our multifamily
302 programs and there are specific rules about that. So when you look at who would pay for a reasonable
303 modification, you can consider is it single-family or multifamily dwelling unit? Does the property receive
304 federal financial assistance? That could be coming through TDHCA or your local city or county or
305 somewhere else. When was the property built for first occupancy?

306 Does the property participate in the low income housing tax credit program? What type of accessibility
307 feature is being requested? And does an agreement exist between the parties?

308 So there are specific implications to properties that are subject to section 504. Under the regulations

309 implementing section 504 of the Rehabilitation Act of 1973, structural changes needed by an applicant
310 or resident with a disability in housing receiving federal financial assistance are considered reasonable
311 accommodations and must be paid for by the housing provider in most cases.

312 All participants in TDHCA's low income housing tax credit program awarded after 2001 are required to
313 provide and pay for reasonable accommodations, including structural modifications to dwelling units or
314 public and common use areas if they do not amount to an undue financial or administrative burden.

315 So this is specific to TDHCA programs and properties participating in those.

316 Here is a complicated flow chart that comes from the San Antonio Fair Housing council. And I want to
317 thank them for creating this. There's a lot of information here and it's attached as a handout in today's
318 handouts. And it's also been made accessible, so if there's somebody who uses a screen reader they can
319 also use this.

320 So I'm just going to walk through a couple of examples here. So let's say you've got a single-family
321 property and you start at the top. Okay, so single-family, so you will go to the left side of the screen
322 here. Are there federal funds involved? No. Let's say there's no federal funds involved. I'm selling my
323 house to another private landowner.

324 And is there an agreement? If I'm selling my house to someone with a wheelchair I may have made an
325 agreement to put a ramp into the house or some other agreement with the real estate transaction. So if
326 there is an agreement that might obligate me to pay. If not, then the new owner would be paying for
327 that.

328 Let's go to the multifamily side.

329 Is the subject dwelling unit located in a building with four or more dwelling units in it?

330 So let's say we have a property that has 200 units. So yes, the building has four or more units. And it was

331 just constructed last year. So was it built for first occupancy after March 13th, 1991? Yes, it was.

332 Does the modification fall under one of the seven Fair Housing Act design and construction
333 requirements? So should this modification have been there upon construction?

334 No, it's something specific. I would like to get my counter top lowered because I am a wheelchair user
335 and this will help me.

336 So it does not fall under design and construction. Or maybe it's that I need a walk-in shower because
337 I'm not able to lift my leg over the bathtub. So are there federal funds involved? No, there are not
338 federal funds involved, but it is the TDHCA low income tax low income housing building. Yes, the tax
339 credit owner would have to pay unless they prove an undue financial burden or administrative burden.

340 This flow chart is here for you. If you have specific questions my contact information is available. This
341 is most helpful to folks that are using federal funds or participating in TDHCA programs. It's a little bit
342 more complicated and nuanced for those folks.

343 Okay. So when can I deny a request for a reasonable accommodation? If a housing provider has reliable,
344 objective evidence that a person with a disability poses a threat to others. If the request was not made by
345 or on behalf of a person with a disability or if there's no disability related need for the accommodation.

346 If providing the accommodation is not reasonable, if it would impose an undue financial or
347 administrative burden on the housing provider or it would fundamentally alter the nature of the
348 provider's operations.

349 If not reasonable, consider whether there is an alternative accommodation that would effectively address
350 the requester's disability related needs.

351 Okay. So I'm going to check in on some of our questions really quickly. That was a pretty meaty subject
352 area. We're going to mute the phone for just a couple of minutes as we take a look through your

353 questions.

354 **SUZANNE HEMPHILL:** Hi, folks, we're back. We were just taking a minute to look through your
355 questions. If you're part of the tax credit program, does the property pay for grab bars that the resident
356 asks to be installed based on their need and placement? Typically the blocking would also be installed in
357 a tax credit property. It would depend on the year funded. But in general yes, you would be paying for
358 this particularly if you were funded after 2001.

359 Then there were a series of questions about possible safety issues or hazardous issues if someone, what
360 they needed was installing a ramp. So say you're installing a ramp somewhere and you feel like it might
361 present a safety issue to other residents or get in the way of fire code or something like that. Chalisa and
362 Ed, can you advise or let us know how you would look into those kinds of cases?

363 **CHALISA WARREN:** Sure. So with a reasonable accommodation, including a ramp, you can request
364 that during the interactive process with the requester or the tenant that that is something that is safe. A
365 lot of times we have a tenant wants to put down plywood and that might be okay for some housing
366 providers, but you can request information again just to collaborate or confirm that it will be something
367 that is safe for anyone who may use that modification.

368 **SUZANNE HEMPHILL:** Great.

369 Okay. We'll get back to the presentation and we've got scenario 4. Is there a poll on this one?

370 **CHALISA WARREN:** No.

371 **SUZANNE HEMPHILL:** Okay. So scenario 4, because of his disability, an applicant with a hearing
372 impairment needs to keep an assistance animal in his unit as a reasonable accommodation. The housing
373 provider may not require the applicant to pay a fee or a security deposit as a condition of allowing the
374 applicant to keep the assistance animal.

375 However, if a tenant's assistance animal causes damage to the unit or the common areas of the dwelling,
376 the housing provider may charge the tenant for the cost of repairing the damage. They could also deduct
377 it from the standard security deposit. If it is the provider's practice to assess tenants for any damage they
378 cause to the premises.

379 So we've seen issues with requiring pet deposits and fees for service animals. And that's something that I
380 think that comes and goes every couple of years. If it's a service animal you should not be requiring a fee
381 or a pet deposit.

382 Scenario 5, a housing provider requires all applicants to complete an application that includes
383 information on the applicant's current place of residence.

384 On her application, a woman notes that she currently resides in Cambridge House, the manager knows
385 that Cambridge House is a group home for people receiving treatment for alcoholism. Based solely on
386 that information and the manager's personal belief that alcoholics are likely to cause disturbances and
387 damage property, the manager rejects the applicant.

388 The rejection is unlawful because it is based on a generalized stereotype related to a disability. The
389 housing provider may not treat this applicant differently than other applicants based on his subjective
390 perceptions of the potential problems posed by the applicant's alcoholism or by requiring additional
391 deposits, imposing different lease terms or requiring a higher security deposit.

392 And again, it would be requiring those things because of their perceptions of potential problems
393 associated with alcoholism, which is a disability.

394 The manager could have checked his applicant's references in the same extent and manner as he would
395 have checked any other applicant's. If the reference check revealed the objective evidence showing the
396 applicant posed a direct threat to persons or property in the recent past and the direct threat had not

397 been eliminated, the manager could have rejected the applicant based on direct threat.

398 Okay, another scenario. A tenant has a severe mobility impairment that substantially limits his ability to
399 walk. He asks his housing provider to transport him to the grocery store and assist him with grocery
400 shopping as a reasonable accommodation to his disability.

401 The provider does not provide transportation or shopping services for its tenants, so granting this
402 request would be a fundamental alteration in the nature of the provider's operation. The request can be
403 denied, but the provider should discuss with the requester whether there is any alternative
404 accommodation that would effectively meet the requester's disability related needs without
405 fundamentally altering the nature of its operations.

406 So an example of that would be reducing the tenant's need to walk long distances by altering its parking
407 policy to allow a volunteer from a local community service organization to park her car close to the
408 tenant's unit so she can transport the tenant to the grocery store and assist him with his shopping.

409 Scenario 7: And I believe there's a poll on this one. A tester from a nonprofit organization contacted a
410 college by telephone. In the phone call the tester identified his son as a disabled person who required an
411 emotional support animal. The college representative refused to waive the college's pet rule and stated
412 that the tester's emotional support animal would be required to remain indoors. The college
413 representative also indicated that students with emotional support animals were encouraged to reside in
414 a specific dormitory.

415 Okay. So we're going to put a poll up. Okay. So the answer is -- the question on the poll is does this
416 action violate Fair Housing laws?

417 So the scenario here is a tester from a nonprofit organization called a college and identified his son as a
418 disabled person who required an emotional support animal. The college refused to waive the pet rule

419 and stated that the emotional support animal would be required to remain indoors and also indicated
420 that students with emotional support animals were encouraged to reside in specific dormitories.

421 So does this action violate Fair Housing laws? Yes, no or unsure.

422 Okay. Looks like most folks have made up their mind on this one so we're going to go ahead and close
423 it.

424 84% said yes, and that is correct, this would violate the Fair Housing Act.

425 The complainant alleged that respondent's manager and assistant manager asked her to give them \$300
426 for a pet deposit for her emotional support cat and also to pay a monthly pet fee of \$10. They also
427 threatened to send a lease violation to the housing authority. The complainant alleged that the manager
428 was aware of her disability. The manager asked complainant to come to the office and when she went to
429 the office the manager told her to sign an animal addendum for her cat. The complainant alleged she
430 was subjected to different terms and conditions of rental and denied a reasonable accommodation due
431 to her disability.

432 So again we're going to put the poll up.

433 **ED HILL:** So if this were true would these issues violate the Fair Housing laws? Yes, service animals
434 are always allowed. No, the property needs more information. Or unsure.

435 So once again the scenario, the complainant alleged that the respondent -- sorry. Complainant alleged
436 that the respondent's manager and assistant manager asked her to give them \$300 for an emotional
437 support cat and also pay a monthly fee of \$10. They also threatened to send a lease violation notice to
438 the housing authority. The complainant alleged the manager was aware of her disability. The manager
439 asked the complainant to come to the office and when she went to the office the manager told her to
440 sign an animal addendum for her cat. The complainant alleged that she was subjected to different terms

441 and conditions of rental and denied a reasonable accommodation due to her disability.

442 **SUZANNE HEMPHILL:** Okay. So the answer here is a little bit tricky. We can go ahead and close it.

443 76% of folks said yes, service animals are always allowed. 15% said no, the property needs more

444 information. And 10% were unsure.

445 So on this one the correct answer is no, the property needs more information. We don't understand the

446 connection or the nexus between the disability and the cat. So this was a case that Texas Workforce

447 Commission Civil Rights Division investigated. They found that the disability was not obvious and that

448 the tenant did not provide information from a reliable third-party as requested to show the need for the

449 cat.

450 During the investigation the respondent was given reliable third-party information showing that she was

451 disabled and why she needed the cat and then the request was approved.

452 So service animals aren't necessarily always allowed if you can't determine someone is disabled or their

453 need for the animal and the connection.

454 So here the property asked for more information and then approved that request.

455 Okay. We'll keep going. So scenario 9, complainant is a person with disabilities and it prevents him from

456 walking and talking. Complainant uses a wheelchair. Complainant lived with his brother who had a

457 general power of attorney which allowed the brother to act on complainant's behalf. The brother

458 purchased a wheelchair carrier in order to safely transport the complainant and his wheelchair. The

459 brother parked the wheelchair carrier in his driveway in front of his home. However the homeowner's

460 association demanded that he remove the wheelchair carrier, citing a deed restriction. So the

461 complainant alleged that the homeowners' association failed to make a reasonable accommodation of

462 allowing an exception to the deed restriction when the homeowner's association disapproved his request

463 to keep the wheelchair carrier in the driveway.

464 So here the question is: If true, would this issue violate Fair Housing laws?

465 So the scenario again is there's a complainant that has disabilities. He's not able to walk or talk and uses

466 a wheelchair. That might be readily apparent. The complainant lives with his brother. And the

467 homeowner's association had a deed restriction that wouldn't allow the wheelchair carrier to be parked

468 in the driveway in front of his home.

469 So the homeowner's association didn't allow an exception or a reasonable accommodation to this and

470 disapproved the request to keep the wheelchair carrier in the driveway.

471 If true, would this issue violate Fair Housing laws?

472 Okay. I'll give you a couple more seconds here.

473 All right. So the answer is yes, respondents were charged with violating the Texas Fair Housing Act. The

474 case settled before the trial began. Again, many of these scenarios are real life things that Texas

475 Workforce Commission has investigated. Respondents agreed to provide monetary individual relief to

476 the complainant and take Fair Housing training. So these laws also apply to homeowner's associations so

477 be on the lookout. Sometimes we focus more on the multifamily side of this, but it can certainly affect

478 single-family as well.

479 Scenario 10, complainant alleged that she was subjected to different terms, conditions, privileges or

480 services and facilities and denied a reasonable accommodation request because of her disabilities.

481 She stated that the respondent's manager's representative and the staff of the apartments discriminated

482 against her by denying her reasonable accommodation request to be allowed to pay her rent according to

483 the day she receives her Social Security disability income check. Her check arrives on the third

484 Wednesday of every month. Complainant alleged that instead she received numerous late fees which

485 have put her in a financial bind.

486 Okay. So we've got another poll here. Did this action violate Fair Housing laws? Yes, no or unsure.

487 As a reminder, this scenario, is a complainant who received a Social Security disability income check and

488 she asked for a reasonable accommodation that she pays her rent the third Wednesday of every month.

489 The complainant alleged that instead she received numerous late fees which have put her in a financial

490 bind.

491 Did this action violate Fair Housing laws? So if they denied her request.

492 Okay, interesting answers here. We have a pretty big divide. 35% of you say yes, 49% said no and

493 16 percent are unsure.

494 So in this scenario it would be considered unreasonable to grant this request. So did they violate -- what

495 was the question, Nathan?

496 **NATHAN DARUS:** Did it violate the Fair Housing laws?

497 **SUZANNE HEMPHILL:** So yes, this would. So it is considered a reasonable accommodation to

498 change when you pay the rent. This person established that they are disabled and it would be considered

499 reasonable to move when she pays the rent to the third Wednesday of every month when her check

500 comes and if she received numerous late fees that would be problematic.

501 So again, this case was settled and respondents agreed to allow for the rental payment to be due at the

502 different date according to the Social Security disability income check. And with the three-day grace

503 period.

504 Respondent's also agreed to reimburse all late fees that were accrued because of the denial.

505 Okay. I think we should go ahead and check in on some of the questions. We're going mute the line for

506 a couple of minutes and go through the questions because a bunch have come in. Hold on for just a

507 minute.

508 **SUZANNE HEMPHILL:** Okay. So I'm going to read out loud one of the questions and this is one of
509 the scenarios that we talked about moving when someone pays the rent. The request is was a request for
510 accommodation made when they moved in on the third Wednesday of the month or did they get behind
511 and want to change the rent date?

512 So I don't have all the specifics of that case in front of us, but I think the response would need to
513 come-- the response would be due when they made the request.

514 **CHALISA WARREN:** Correct.

515 **SUZANNE HEMPHILL:** Okay. So if they fell behind and then made the request, they're still making
516 the request for that month.

517 **CHALISA WARREN:** Right.

518 **SUZANNE HEMPHILL:** And they don't necessarily have to make requests when they move in, they
519 can make it at any time.

520 **CHALISA WARREN:** That is true.

521 **SUZANNE HEMPHILL:** So a question came in about recertification. Is it true that you must go
522 through a recertification every year? And what does a recertification involve. So I'm guessing that this
523 person lives in an affordable housing property. Recertifications are typically looking at income and assets
524 to verify that you're income eligible to live in a unit. And those are required to participate in the
525 program. Properties have to show they have income eligible individuals in their unit every year and
526 therefore you can still afford to be in the unit.

527 What is a conciliation agreement?

528 **ED HILL:** A conciliation agreement is a document created during a mediation. For those who don't

529 know, Texas Workforce Commission Civil Rights Division provides free mediation services to help
530 resolve complaints, keep them out of the courts, resolve it at the lowest level, keep expenses down and
531 save time.

532 It creates a livable agreement that both parties can live with and move forward.

533 It also keeps it out of the press. So the conciliation agreement is basically the agreement that the two
534 parties come together on and decide, you know, if there's going to be restitution of any kind, if there's
535 going to be training requirements and stuff of that nature.

536 So just an agreement between the two. It is a binding agreement between two parties to settle a dispute.

537 **SUZANNE HEMPHILL:** Okay. And there's some specific questions here about what constitutes a
538 service dog. And this person may be thinking of different definitions and different laws and regulations
539 under the Fair Housing Act, Section 504 and the Americans with Disabilities Act.

540 So the HUD guidance that I'm looking at says an assistance animal is not a pet. It is an animal that
541 works, provides assistance or performs tasks for the benefit of a person with a disability or provides
542 emotional support that alleviates one or more identified symptoms or effects of a person's disability.

543 And this handout is available to you and I am reading from page 2 on the service animal and assistance
544 animal for people with disabilities in housing and HUD funded programs.

545 So a service dog, Chalisa, could you tell us where that term comes from?

546 **CHALISA WARREN:** So for a service dog, I think what happens is that housing providers and
547 obviously people in the industry use the word interchangeably. A service animal is -- doesn't have to be a
548 pet, so doesn't have to be a dog. It would just depend on what that specific term is meaning.

549 Is someone saying a service dog as defined under ADA, which does have to be trained, they help
550 people. Relate that to the seeing eye dog for those people who are blind.

551 So I believe that most often times in using those words interchangeably they confuse the two.

552 **SUZANNE HEMPHILL:** Yeah. So under the Fair Housing Act that covers emotional support
553 animals and assistance animals, correct?

554 **CHALISA WARREN:** It does.

555 **SUZANNE HEMPHILL:** Can an emotional support animal be switched to a service dog without the
556 necessary training?

557 So if you're a housing provider under the Fair Housing Act, both would be covered?

558 **CHALISA WARREN:** Right. It doesn't matter because the service animal does not have to be trained
559 under the Fair Housing Act, correct.

560 **SUZANNE HEMPHILL:** Okay.

561 So this question is a little bit tricky. If an individual provides a Service Registry of America type
562 certificate to provide documentation of an emotional support animal is it legal to ask for a doctor letter
563 as there are many businesses that are paid for certificates?

564 **CHALISA WARREN:** That's a really good question. If the disability is not obvious, the Fair Housing
565 Act does allow for the provider to ask for documentation to verify the need for the service animal. So
566 you do not have to have a doctor's letter, you just need a reliable third-party. And if the question is
567 implying that the service registry of America is not reliable, you can request a reliable third-party, but it
568 does not have to be a doctor. So it could be a social worker, case manager. Someone who has
569 knowledge of the person with the disability and then obviously what the connection would be between
570 the disability and the need for the service animal.

571 **SUZANNE HEMPHILL:** Can a support animal be any kind of animal other than dog or cat?

572 **CHALISA WARREN:** Yes.

573 **SUZANNE HEMPHILL:** So in Texas I think y'all have seen service roosters and miniature horses.

574 **CHALISA WARREN:** We have. We actually have a case now where their service animal, support
575 animal request was for a cow. Granted, they are in a rural area so that would be different, a different
576 analysis as opposed to whether or not it's in the city limits of Austin. But it doesn't have to be a dog or
577 cat, correct.

578 **SUZANNE HEMPHILL:** How many service animals can a resident have?

579 **CHALISA WARREN:** The service animal -- it depends on what's reasonable. I don't like to not give a
580 direct response, but it would have to be what is reasonable.

581 Most medical providers would not say that a person needs five pets. It may, but usually don't. There
582 would have to be a connection between those and the disability. As long as there's a connection. But
583 you usually won't see more than -- I don't think we've seen more than two, but you usually won't see
584 that large of a number. So there isn't a number. It's just what the medical provider states. There has to
585 be a connection for each service animal and the residents.

586 Let's say you have five occupants, maybe each one of them have a pet, for example. So that could be
587 reasonable. But for one person usually it is not.

588 **SUZANNE HEMPHILL:** Okay, great. That's very helpful.

589 And again, what Chalisa is saying highlights that is really is based on the specific questions and the
590 situation and the disability and the connection and what the animal is helping with.

591 So we'll keep going in the presentation here. And I will turn it back to Ed. If you've got questions, feel
592 free to submit them. We'll take a look at those and see how many we can get through.

593 **ED HILL:** Okay. Reasonable accommodation investigative elements. During the investigation the
594 Texas Workforce Commission Civil Rights Division will use these elements of proof, questions to

595 develop an investigative plan.

596 Part of the plan will be to ask the complainant and respondent to provide information, documentation
597 and witnesses to support their position and answer the question.

598 And these questions are posted for your viewing.

599 Issues: Terms and conditions. It is illegal to set different terms, conditions or privileges for sale or rental
600 because of a disability.

601 Examples: Housing providers may not treat disabled tenants differently when it comes to issuing lease
602 violation notices because of the disability of the person.

603 Also, housing providers may not require disabled persons to sign an extra addendum to use the pool at
604 the property.

605 Title III of the Americans with Disabilities Act covers public and common use areas at housing
606 developments when these public areas are by nature open to the general public or when they are made
607 available to the general public.

608 For example, it covers the rental office that by its nature the rental office is open to the general public.

609 In addition, if a day care center or community room is made available to the general public, it would be
610 covered by Title III. Title III applies irrespective of whether the public and common use areas are
611 operated by a federally assisted provider or by a private entity.

612 If the community room or day care center were only open to residents of the building, Title III would
613 not apply.

614 HUD's regulations for Section 504 of the Rehabilitation Act of 1973 as amended apply to federally
615 assisted programs can be found in the code of 24 CFR part 8. Recipients must take steps to ensure that
616 their programs and services are readily accessible to and usable by persons with disabilities to the

617 maximum extent feasible, which means the recipient would be required to take all steps to provide the
618 necessary access, but which would not constitute an undue financial or administrative burden or require
619 a fundamental alteration in the nature of the program.

620 When an applicant or tenant requires an accessible feature or policy modification to accommodate a
621 disability, a federally assisted housing provider must provide the feature or policy modification unless
622 doing so would result in the fundamental alteration in the nature of the program or undue financial or
623 administrative burden.

624 Here's the HUD memorandum on service animals. TDHCA has rules in place regarding reasonable
625 accommodations. And I'll turn it back over to Suzanne to cover.

626 **SUZANNE HEMPHILL:** Great. So the top of this slide just real quickly covers ADA, which like Ed
627 said covers public and common use areas in housing developments and 504. So this breaks down some
628 of those service animals questions and which laws would cover that.

629 Again, this is specific to properties participating in TDHCA programs. There's a special rule regarding
630 reasonable accommodations. A recipient that owns a low income housing tax credit or multifamily bond
631 development with no federal or state funds awarded before September 1, 2001, must allow, but need not
632 pay for reasonable accommodation. Except if the accommodation requested should have been made as
633 part of the original design and construction requirements under the Fair Housing Act or is a reasonable
634 accommodation identified by the U.S. Department of Justice with a de minimis cost. So that is like
635 assigned parking spot, no deposit for service and assistance animals. In general what we see is denial of
636 reasonable accommodations often occurs due to misunderstandings of what reasonable
637 accommodations are and how they might work.

638 So there's a newer rule, I think it's been in place for the last 16 months, since 2017, responses to

639 reasonable accommodation requests, and this is for folks participating in TDHCA programs, must be
640 provided within a reasonable amount of time not to exceed 14 calendar days. So you don't have to
641 necessarily grant the request within 14 calendar days, but you must respond and your response must be
642 one of four things.

643 Your response can be to grant the request, deny the request, offer alternatives to the request, or ask for
644 additional information to clarify the reasonable accommodation request. And if you need additional
645 information and to engage in the interactive process with the household, this process must also be
646 completed within a reasonable amount of time.

647 What we're saying is an undue delay in responding to reasonable accommodation requests can be a
648 failure in providing the reasonable accommodation. So you can respond in one of four ways within 14
649 calendar days. So we have some examples specific to TDHCA rules.

650 A resident requests to move their rent due date to coincide with their Social Security disability check. It
651 would not be considered reasonable to wait 14 calendar days to respond to this request.

652 And real quickly, we've received a couple of questions about if a child in the household receives a
653 disability check and if they can then request for that. If that disability check was part of their source of
654 income.

655 **CHALISA WARREN:** Correct. If they're using - if the resident is using the children's or the child's
656 disability check to pay their rent, then yes, they could use that -- they could request a reasonable
657 accommodation based on when they received those checks.

658 **SUZANNE HEMPHILL:** Okay. And then really quickly, another question came in. This may sound
659 silly, but do you have to be disabled as defined by the Social Security Act for disability?

660 **CHALISA WARREN:** No, you have to be defined as disabled as defined by the Fair Housing Act.

661 What we discussed earlier --

662 **SUZANNE HEMPHILL:** On the previous slide we talked about major life activities, like walking,
663 seeing, breathing, ability to work, things like that that could lead to a disability.

664 I believe that is on slide 10.

665 All right. I'm going to keep going with these examples as we're in our last 15 minutes.

666 A resident requests a designated accessible parking space. An individual's disability status and the
667 connection to the reasonable accommodation request are not clear. Documentation must be requested
668 within 14 calendar days to clarify the resident's request, engaging in an interactive process to determine
669 the nature of the request and the needs of the resident.

670 An applicant with a disability requires a service animal to alert of impending seizures. The shelter has a --
671 this is for a homeless shelter -- has a no pets policy. It would not be reasonable to wait 14 calendar days
672 to respond to this request.

673 A person with a disability requests modifying doorknobs to levers. So that's something where if
674 somebody struggled with the ability to on open a doorknob it would be to use a lever. The property
675 must respond to the request within 14 calendar days, although it is not -- although it is reasonable that it
676 could take additional time to install the modified doorknobs. Perhaps you've ordered them and
677 responded to the request and they would be installed after 14 days. That would be fine.

678 A housing provider requires that tenants sign 12-month leases. A household signs the lease, but after a
679 few months has to move out in order to live in a nursing home. The household requests a reasonable
680 accommodation to be let out of his lease early without a fee. The property may request additional
681 information if the disability and relationship between the request is not clear, but they must ask for this
682 information within 14 calendar days.

683 An applicant requests a reasonable accommodation to have assistance in filling out a program
684 application for the Housing Trust Fund program. It would not be reasonable to wait 14 calendar days to
685 respond to this request.

686 Again, those are specific to TDHCA programs and the reasonable accommodation rule that you must
687 respond within 14 calendar days.

688 Okay. Here are more accessibility examples for TDHCA programs and for participating in those.

689 A resident requires an accessible parking space that will accommodate her wheelchair equipped van. An
690 acceptable accommodation includes relocating and enlarging an existing parking space that will serve the
691 van.

692 A resident uses a scooter type wheelchair which is 38 inches in width. She requests a ramp to enter her
693 ground floor unit. The ramp which she requests must be at least 40 inches wide to accommodate the
694 scooter and it must have a slope of no more than three percent with a landing at the front door, which
695 opens outward. It needs to be enlarged to provide adequate maneuvering space to enter the doorway.

696 The changes must be provided even though they may exceed the usual specifications for such
697 alterations.

698 So this is depending on this person's disability and needs to occupy their dwelling.

699 A resident needs a ramped entrance to her ground floor unit to accommodate her wheelchair. She does
700 not wish to move to an accessible unit. The recipient must provide an accessible entrance at the
701 resident's current unit unless it would be an undue financial and administrative hardship or a
702 fundamental alteration of the program to do so.

703 So many of TDHCA's -- the properties that participate in TDHCA's programs have specific mobility
704 impairment units with accessibility features and that could be made available to units -- to a tenant with

705 that impairment. However, they do not have to move. They could request a ramp. And that could be
706 denied if it was an undue financial and administrative hardship or a fundamental alteration of the
707 program to do so.

708 Ramps don't necessarily meet that requirement.

709 Okay. The last example. A resident with quadriplegia requests replacement of a bathtub in his unit with
710 a roll in shower. So these requests are all very specific based on the existing plumbing in the building,
711 what's possible, cost, age of the facility, can it be altered, what is the cost?

712 So due to the existing plumbing in the building and the size of the existing bathroom, a plumber
713 confirms that the installation of a roll-in shower in that unit is impossible. The on-site manager should
714 meet with the resident to explain why the roll-in shower cannot be installed and to explore alternative
715 accommodations with the resident.

716 Perhaps there's a load bearing wall that can't be moved or something like that. So again, this is where
717 you get into your interactive process with the resident to understand what their needs are and if
718 something else might be altered to meet that. Or if there's a different unit available in the building where
719 it could be altered.

720 Okay. Complaints. Do you want to take it over?

721 **CHALISA WARREN:** Sure. So now we'll discuss what happens if you have a complaint filed against
722 you. One, you will be notified of the allegation, you will be invited to mediate even though mediation is
723 voluntary. If you decide not to mediate, you can file an answer that is in writing and under penalty of
724 perjury. Your answer can be amended at any time during the course of the investigation.

725 Or for anyone who wants to file a complaint you can go to our website, which is

726 <http://www.TexasWorkforce.org/civilrights> and there's an electronic form that you can complete that

727 will be routed to our intake person.

728 Mediation is a service that was implemented in our office in 2014 and as I stated, it is voluntary, a free
729 service that is offered from the time that the complainant completes the complaint. It eliminates lengthy
730 investigations and expensive litigation. It is a speedy resolution of complaints that takes place in less
731 than a month. Usually our cases we attempt to resolve them in 100 days. It saves time and money and
732 opens lines of communication between the disputing parties. A lot of times we get complaints in and
733 essentially the problem is they're no longer talking to each other. So this allows the parties to understand
734 the position of the opposing party. And it is an agreement that is binding on both the complainant and
735 the respondent. So our settlement agreements are also called in some instances conciliation agreements.

736 Individuals may file a complaint under more than one basis, under more than one protected class. So the
737 percentages here that are calculated are based on the total complaints filed. While they don't equal
738 100%, the majority of our cases, in percentage and in number, are based on disability.

739 Again, multiple issues can be involved in filing a complaint. The number one reason that we get in our
740 office, number one reason for a complaint is that a person feels they've been treated differently because
741 of their protected class, which is terms and conditions.

742 So what can housing providers do? Although anyone can file a complaint, it's -- we welcome the
743 opportunity for housing providers to get educated, to know what the law is and what your
744 responsibilities are under the Fair Housing Act. Establish policies and procedures that are
745 non--discriminatory and implement those policies and procedures and consistently apply them. When
746 you deviate from those policies and procedures, make sure you have a reason why you've done that.

747 Ensure that policy and procedures should have exceptions for reasonable accommodations and
748 reasonable modifications. And then make sure that you recognize those requests.

749 Even for TDHCA, even those properties that are not receiving funds from TDHCA, you want to be
750 prompt in responding to all requests for reasonable accommodations and modifications.

751 And then document your interaction, especially with reasonable accommodation and modification
752 requests.

753 And so, similarly, housing consumers can also get educated. Be familiar with the lease, the addendums
754 and anything else that is concerning the tenancy or residency. Document your interaction with housing
755 providers. It's the most important thing you can do is document all interactions.

756 And if you feel that you've been treated differently because of your different class you can file a Fair
757 Housing complaint.

758 We have a civil rights reporter in our office and you can sign up for it. That link is
759 www.twc.state.tx.us/partners/civil-rights-reporter .

760 And it's an updated newsletter that comes out quarterly that gives information on some of the cases and
761 some best practices in our office.

762 **SUZANNE HEMPHILL:** Okay. And with our remaining seven minutes, we're going to go through
763 some of the questions. There is one about a resident wants to have a roll-in shower but the unit we have
764 is a tub/shower combo. Do we have to pay or does the resident pay for the modification? So again this
765 is specific to those four or five questions that we looked at, are there federal funds involved, what was
766 the year the property was built and funded. Would this fall under original design and construction
767 requirements, are there four or more units involved in the building and is there a tax credit award? So we
768 can't just answer that.

769 And again, is it an administrative burden? Are you fundamentally altering the program and is it a
770 financial burden. These are the financial questions you will need to look into.

771 If you participate in TDHCA programs you could reach out to myself or Nathan. If you're asking about
772 a property in Texas in general and requirements under the Fair Housing Act you could certainly reach
773 out to Texas Workforce Commission Civil Rights Division, Ed and Chalisa.
774 I'm going to mute the line and see if we can answer a couple more questions.
775 Nathan will also put up a poll and we would appreciate your participation in that.
776 **SUZANNE HEMPHILL:** All right. We're going to tackle these last couple of questions. What
777 amount is an undue financial burden?
778 So if you participate in TDHCA programs and we end up looking into it because HUD funds are
779 involved, we will be looking at financial statements and how much are in your reserves.
780 And meeting that threshold for an undue financial burden sometimes is higher than what properties can
781 pay.
782 **CHALISA WARREN:** It is similar for Texas Workforce Commission. We are looking at financial
783 resources, we are going to look at expenses. So there isn't a set amount we are going to look at. The
784 financial resources and the cost of the reasonable accommodation.
785 **SUZANNE HEMPHILL:** Okay. For a service dog or an emotional support animal, can a provider
786 require that the tenants do animal vaccinations of the service animal? And we're going to make the
787 assumption here that they're requiring this of all animals on the property and they're not treating this
788 person differently.
789 **CHALISA WARREN:** And under that assumption if they're not treating that tenant any differently,
790 then yes, it's no different than requiring the tenants to pick up after the emotional support animal or the
791 service animal after they have done their business.
792 So yes, you can.

793 **SUZANNE HEMPHILL:** Okay. So there's a specific question on let's say there's a single-family home
794 and it's being occupied by a household that participates in the Section 8 program. So they have a
795 voucher that's portable. Who pays for the reasonable modification in that scenario? I would go back to
796 the flow chart and say are there any federal funds involved in the construction of that single-family unit.
797 There are scenarios in which there's a scattered site and there could be federal funds involved in that
798 housing unit. If it's on the private market and there's no federal funds involved, the answer is potentially
799 different. So again, this is a specific scenario and you could talk to your local housing authority or who
800 you're renting the property through and find out about any financing in that single-family home.

801 If a tenant is required to pay for a reasonable modification, so let's say that they've requested a ramp,
802 what does the apartment complex do if the tenant tells them they can't pay for the ramp but it's not on
803 the property to construct the ramp, it's on the tenant?

804 **CHALISA WARREN:** The property can choose to pay for it. If it's on the tenant, the property can pay
805 for it. If the property does not want to pay for it other than finding other resources for the tenant,
806 they're not obligated to pay for it.

807 **SUZANNE HEMPHILL:** So if the tenant is obligated to build the ramp and if they don't have the
808 funds to do that and the property is not obligated to build it, they could choose to, but they do not have
809 to pay for that.

810 Okay, y'all. We are reaching the end and I think we've been able to answer most of your questions today.

811 This last slide includes more contact information for Texas Workforce Commission Civil Rights

812 Division. I want to thank everybody for attending today. We've had about 300 folks listening in, which
813 is very exciting.

814 This concludes today's presentation and the webinar series for April 2018. I want to thank all of the staff

815 that made this possible, Ed and Chalisa in the room bringing a lot of expertise and on the ground
816 experience with Fair Housing in Texas. And Nathan here facilitating answering your questions and
817 keeping things running smoothly.

818 And everybody that participated today. Thank you for coming and working to promote Fair Housing
819 choice and opportunity in Texas.

820 Our contact information was available at the beginning of the presentation on slide 3. And feel free to
821 reach out. Thank you so much.