



# CITY OF IOWA CITY MEMORANDUM

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Date: May 1, 2020  
To: Iowa City Landlords and Rental Property Managers  
From: Kristin Watson, Human Rights Investigator  
Re: Fair Housing in the Context of COVID-19

During the coronavirus pandemic, landlords and tenants may have questions regarding how Iowa City's Fair Housing Ordinance (ICFHO) standards apply. This memorandum is meant to provide general guidance regarding this subject. If you have questions regarding topics addressed in this memorandum or your rights and responsibilities in general, please call the office at 319-356-5015 or 319-356-5022.

Guidance regarding some common questions follows.

## **Is a person with COVID-19 a person with a disability?**

The answer to this depends on the individual case. A disability is a substantial impairment of a major life activity. COVID-19 can be mild but can also be severe and have lasting effects. For COVID-19 to be deemed a disability in a particular individual's case, evidence would need to be presented that the virus substantially impaired a major life activity (such as breathing, walking, eating, etc.). Similarly, a person may recover fully, but also may experience significant long-term health consequences. Evidence would need to be presented that a long-term effect on a person's health, whether physical or psychological, substantially impaired a major life activity for the effect on the person's health to be deemed a disability. Therefore, housing providers should treat COVID-19 the same as any other disease or condition that may be a disability, depending upon its severity and effect.

Remember that chronic diseases and bodily-system impairments (such as reduced organ function) are also deemed "major life activities" under the law. Therefore, if COVID-19 causes a person to survive with permanently reduced lung capacity, for example, that person would likely have a disability. Also remember the ICFHO protects those who are *regarded* by another as a person with a physical or mental impairment even if they do not actually have one, or a person with a *record* of having such an impairment.

## **Is a person with COVID-19 a "direct threat?"**

The ICFHO allows a housing provider to restrict tenancy or access to the property by someone who is a "direct threat" to the health and safety of others. However, whether any person is a direct threat is an individualized assessment that must be based on objective evidence rather than fears or stereotypes. Assessment must consider the nature, duration, and severity of the risk to others, the probability that injury to others will actually occur, and whether there are any reasonable accommodations that will reduce or eliminate the threat.

In the event a tenant or tenant's guest reveals having COVID-19, a housing provider should take into account the fact that such individuals are urged to self-isolate if the case is not severe enough for hospitalization. If others have no interaction with the person, the threat of contracting the virus is greatly reduced. Housing providers are encouraged to thoroughly clean all common areas, whether or not there is any evidence of anyone in the building being ill. The CDC has issued guidelines for cleaning common areas, which can be found here:

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>  
If a person who is ill needs to be transported to or from a health-care facility, contact local public health officials for guidance regarding minimizing risk to others.

**Can a housing provider reveal that a tenant has COVID-19 in order to protect healthy tenants?**

While a housing provider is not among the entities covered by HIPAA, revealing a tenant has COVID-19 without the tenant's express permission could violate the ICFHO's prohibition on disability discrimination. Although the desire to reveal the presence of the virus in the building is understandable, it is never a good idea to reveal anyone's medical information. Healthy tenants can be protected in a variety of ways, including but not limited to encouraging responsible social distancing and isolation practices, and intensified common-area cleaning regimens.

**Must a housing provider provide vacant units as reasonable accommodations when tenants' family members need to be isolated from each other due to COVID-19?**

No. This could be considered a request for reasonable accommodation. However, providing a second unit rent-free is likely an unreasonable fundamental alteration of the housing provider's business. A housing provider is free to provide vacant units if it wishes to but must then do so in a consistent manner to avoid discriminating among tenants belonging to different protected classes.

**Is a housing provider required to care for a tenant's assistance animal while the tenant is ill with COVID-19?**

No. A tenant with any illness must care for their own animal or arrange for its care. As above, if a housing provider wishes to assist a tenant in this way, it may, but must then provide those services in a consistent, non-discriminatory manner.

**Must a housing provider risk the health of its own staff to provide maintenance or continue providing previously arranged accommodations?**

If the repair is necessary to maintain the habitability of the unit (for example, the unit's only toilet is not working), it must be done. Repairs not affecting the unit's habitability may be deferred if there is no safe way to enter the unit. If a housing provider's staff must enter a unit, the provider may determine if it is safe to do so. While the provider may not ask about a disability or require tenants to provide medical information, the provider can ask if there is any reason staff may be exposed if they enter the unit and take appropriate precautions depending upon the answer. A policy regarding routine maintenance, pest inspections, etc. should be developed and consistently applied.

The Office of Equity and Human Rights provides educational memos to landlords on areas of discrimination to assist in providing good outcomes for both landlords and tenants. Please send fair housing topics you would like to receive guidance on to [humanrights@iowa-city.org](mailto:humanrights@iowa-city.org).