Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws requires COC to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. COC will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012
- The Violence against Women Act of 2013 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

When more than one civil rights law applies to a situation, the laws will be read and applied together.

COC Policy

COC shall not discriminate because of race, color, sex religion, familial status, disability, national origin, lawful source of income, or sexual orientation, gender identity, and marital status in the leasing, rental, provision of services, or other disposition of housing related facilities, including land, that is part of any project or projects under COC’s jurisdictions.
2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as COC policies, can prohibit discrimination against additional classes of people.

COC shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”).

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

COC will not discriminate on the basis of marital status, gender identity, or sexual orientation.

COC Policy

COC does not identify any additional protected classes.

COC will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

© Copyright 2014 by Nan McKay & Associates
Unlimited copies may be made for internal use.
Providing Information to Families

COC must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, COC will provide information to public housing applicant families about civil rights requirements.

Discrimination Complaints

COC Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify COC either orally or in writing.

COC will attempt to remedy discrimination complaints made against COC.
PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW
One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

COC Policy
COC will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by COC, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the leasing office/property management office.”
2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for COC, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), COC shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing COC-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with COC staff
- Displaying posters and other housing information in locations throughout COC's office in such a manner as to be easily readable from a wheelchair
2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that COC treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to COC’s programs and services.

If the need for the accommodation is not readily apparent or known to COC, the family must explain the relationship between the requested accommodation and the disability.

COC Policy

COC will encourage the family to make its request in writing using a reasonable accommodation request form. However, COC will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.
2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, COC must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family’s access to COC’s programs and services.

If a person’s disability is obvious or otherwise known to COC, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to COC, COC must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, COC will follow the verification policies provided in Chapter 7. All information related to a person’s disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a non-medical service agency, may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

- COC must request only information that is necessary to evaluate the disability-related need for the accommodation. COC may not inquire about the nature or extent of any disability.

- Medical records will not be accepted or retained in the participant file.

- In the event that COC does receive confidential information about a person’s specific diagnosis, treatment, or the nature or severity of the disability, COC will dispose of it. In place of the information, COC will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.
2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

COC must approve a request for an accommodation if the following three conditions are met.

• The request was made by or on behalf of a person with a disability.
• There is a disability-related need for the accommodation.
• The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on COC, or fundamentally alter the nature of COC’s operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of COC’s program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family’s disability-related needs.

Before making a determination whether to approve the request, COC may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that COC may verify the need for the requested accommodation.

COC Policy

After a request for an accommodation is presented, COC will respond, in writing, within 10 business days.

If COC denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal COC’s decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If COC denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of COC’s operations), COC will discuss with the family whether an alternative accommodation could effectively address the family’s disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If COC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, COC will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal COC’s decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).
2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

COC Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.
2-II.G. PHYSICAL ACCESSIBILITY

COC must comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

COC’s policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern COC’s responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The Agency Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of COC facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.
2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

COC’s decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family’s lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the COC’s grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, COC must consider whether reasonable accommodation will allow the family to overcome the problem that led to COC’s decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, COC must make the accommodation [24 CFR 966.7].

In addition, COC must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].
PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the Federal Register.

COC will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, COC will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to COC and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on COC.
2-III.B. ORAL INTERPRETATION

The COC will offer competent interpretation services free of charge, upon request, to the LEP person.

COC Policy

COC will utilize a language line for telephone interpreter services.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by COC. The interpreter may be a family member or friend.

COC will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), COC will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

COC Policy

In order to comply with written-translation obligations, COC will take the following steps:

COC will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, COC may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.
2-III.D. IMPLEMENTATION PLAN

COC Policy

If it is determined that COC serves very few LEP persons, and COC has very limited resources, COC will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.