

Chapter 1

NONDISCRIMINATION

1-A. OVERVIEW

Federal laws require O/As 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. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The O/A 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 (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.

O/A Policy

The state law prohibits discrimination in employment, housing, public accommodations, public services, education, credit, and business based on protected class such as: race, religion, disability, national origin, sex, marital status, familial status, age, sexual orientation, and gender identity.

1-B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as O/A policies, can prohibit discrimination against additional classes of people.

The O/A 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.

The O/A will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988].

O/A Policy

The O/A identifies creed and status with regard to public assistance as additional protected classes according to the Minnesota Human Rights Act.

The O/A 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 program
- 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
- 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

1-C. POLICIES RELATED TO PERSONS WITH DISABILITIES

The O/A must ensure that persons with disabilities have full access to the O/A's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the PBRA program [24 CFR Part 8].

O/A Policy

The O/A 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 the O/A, 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 O/A.”

A specific position and phone number will be provided as the contact person for requests for accommodation for persons with disabilities.

1-D. 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].

1-E. 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 the O/A 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 the O/A's programs and services.

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

O/A Policy

The O/A will encourage the family to make its request in writing using a reasonable accommodation request form. However, the O/A will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

1-F. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities can be found at 24 CFR Parts 8.3 and 100.201. 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, the O/A 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 the O/A's programs and services.

If a person's disability is obvious or otherwise known to the O/A, 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 the O/A, the O/A 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.

- 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 peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The O/A must request only information that is necessary to evaluate the disability-related need for the accommodation. The O/A may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

1-G. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

The O/A 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 the O/A, or fundamentally alter the nature of the O/A'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 the O/A'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, the O/A 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 the O/A may verify the need for the requested accommodation.

O/A Policy

After a request for an accommodation is presented, the O/A will respond, in writing, within 10 business days.

If the O/A 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 the O/A's decision.

If the O/A denies a request for an accommodation because it is not reasonable, the O/A will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the PBRA program and without imposing an undue financial and administrative burden.

If the O/A believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the O/A 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 the O/A's decision.

1-H. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6]

HUD regulations require the O/A to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the O/A's programs and services [24 CFR 8.6].

O/A Policy

At the initial point of contact with each applicant, the O/A shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.