

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA's housing choice voucher (HCV) operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the PHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, 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. The PHA 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

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 and further clarified in Notice PIH 2014-20

Violence Against Women Reauthorization Act of 2013 (VAWA)

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

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

FHA Policy

No state or local nondiscrimination laws or ordinances apply.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as FHA policies, can prohibit discrimination based on other factors.

The PHA 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.

FHA Policy

The PHA will not discriminate on the basis of marital status or sexual orientation.

The PHA 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 housing choice voucher 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 participant toward or away from a particular area based 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.

Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the FA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Upon receipt of a housing discrimination complaint, the PHA is required to:

Provide written notice of the complaint to those alleged and inform the complainant that such notice was made

Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted

Keep records of all complaints, investigations, notices, and corrective actions
[Notice PIH 2014-20]

FHA Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the PHA either orally or in writing.

Within 10 business days of receiving the complaint, the PHA will provide a written notice to those alleged to have violated the rule. The PHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The PHA will attempt to remedy discrimination complaints made against the PHA and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

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.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

FHA Policy

The PHA will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the PHA, 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 housing authority.”

A specific name and phone number of designated staff will be provided to process requests for accommodation.

The PHA will display posters and other housing information and signage in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, 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 needed, the PHA will modify normal procedures to accommodate the needs of a

person with disabilities. Examples include:

Permitting applications and reexaminations to be completed by mail

Conducting home visits

Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit

Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit

Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff

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 the PHA 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 PHA's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

FHA Policy

The PHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PHA 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, the PHA 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 PHA's programs and services.

If a person's disability is obvious, or otherwise known to the PHA, 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 PHA, the PHA 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, the PHA 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. 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 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 PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.

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

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

The PHA 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 PHA, or fundamentally alter the nature of the PHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the PHA at the time of the request, the benefits that the accommodation would provide to the family, 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 PHA 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 PHA may verify the need for the requested accommodation.

FHA Policy

After a request for an accommodation is presented, the PHA will respond to the family, verbally or in writing, within 10 business days.

If the PHA 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 the PHA's operations), the PHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA 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.

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

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

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

FHA Policy

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

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with PHA staff, one-on-one assistance will be provided upon request.

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

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

Notice PIH 2006-13

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

The PHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

This plan describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.

Notice PIH 2006-13 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.

The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). 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 HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

The PHA'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 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request an informal review and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

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 HCV 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*.

The PHA 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 is 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 administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the PHA 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 Housing Choice Voucher 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 the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

2-III.B. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the PHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

FHA Policy

The PHA 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, the PHA 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. Where feasible and possible, the PHA will encourage the use of qualified community volunteers.

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 the PHA. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

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

FHA Policy

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

The PHA 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, the LHA does not translate vital written materials, but provides 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

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's Housing Choice Voucher program and services.

FHA Policy

If it is determined that the PHA serves very few LEP persons, and the PHA has very limited resources, the PHA 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.

If the PHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

**EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER
FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]**

A person with a disability, as defined under federal civil rights laws, is any person who:

Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or

Has a record of such impairment, or

Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

Current illegal drug users

People whose alcohol use interferes with the rights of others

Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

EXHIBIT 2-2

LIMITED ENGLISH PROFICIENCY (LEP) POLICY

The Department of Justice (DOJ) requested that every Federal funded Agency take steps to implement a plan, as requested by Executive Order 13166.

PURPOSE

The purpose of this plan is to assist Framingham Housing Authority (FHA) staff in providing meaningful access to F.H.A's programs and activities by persons with Limited English Proficiency (LEP). FHA is committed to complying with federal requirements in providing free meaningful access for its LEP clients. No LEP client will be denied access to an FHA program because the client does not speak English or communicates in English on a limited basis.

DEFINITION OF TERMS

Client -A client is a persons who:

is an applicant for public housing, Section 8, homeownership and other PHA programs;
is a recipient of public housing, Section 8, homeownership and other PHA programs;
may be eligible for PHA's programs but is underserved and may benefit from an outreach program.

Effective Communication - Effective communications occurs when PHA staff has taken reasonable steps to provide meaningful access to an LEP client. Effective communication also means that the LEP client is able to provide and receive required or necessary information.

Interpretation -Interpretation means the oral or spoken transfer of a message from one language into another language.

Language Assistance - Language assistance includes interpretation and translation. PHA has the sole discretion to determine whether to provide the language assistance in the form of interpretation or translation.

Limited English Proficiency (LEP) -A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be limited English proficient (LEP) and may be entitled to language assistance with respect to a particular program, benefit or right, The focus is on the client's lack of English proficiency. A client who proficiently speaks English is not a LEP client.

Meaningful Access - Meaningful access is free language assistance in compliance with

federal requirements. PHA's goal is to provide meaningful access to PHA's programs and services by LEP persons in a manner that balances the following four factors:

The number of or proportion of LEP persons eligible to be served or likely to be encountered by PHA.

The frequency with which PHA comes into contact with a particular language. PHA's daily contact with a particular language may require more language service, than sporadic contact.

The nature and importance of the program, activity or service to the person's life. A compulsory activity is evidence of importance. For example, voluntary attendance at a resident meeting does not have the same importance as the application and termination process for public housing and Section 8 participation.

PHA's resources and the cost of providing meaningful access. Reasonable steps may cease to be reasonable where the costs imposed substantially exceed the benefits. PHA determines the budget for language assistance.

Translation -Translation means the written transfer of a message from one language into another language.

OFFER OF FREE LANGUAGE ASSISTANCE

PHA staff will offer the opportunity for meaningful access to LEP clients who have difficulty communication in English. If a client asks for language assistance and PHA determines that the client is LEP and that language assistance is necessary to provide meaningful access, PHA will make reasonable effort to provide free language assistance; if reasonably possible, PHA will provide the language assistance in the LEP client's preferred language.

LANGUAGE ASSISTANCE

Mix of Language Assistance

PHA has substantial flexibility in determining the type of language assistance necessary to provide meaningful access. Meaningful access should be at a time and place that avoids the effective denial of the program or an undue burden or delay in the rights, benefits or services to the LEP person.

Translation of Documents

Where 5% of PHA's public housing tenants or Section 8 recipients are LEP persons and speak a specific language, will translate the public housing lease and selected mass mailings and documents of vital importance in that language.

Formal Interpreters

Formal interpreters include PHA bilingual staff and contract vendors.

Formal interpreters shall be used at the: 1) formal hearing for denial of admission to

public housing; 2) informal settlement conferences and formal hearing for termination of public housing; 3) nondisclosure hearing for Section 8 participation; and 4) termination hearing for Section 8 participation.

A PHA Staff interpreter may not be a subordinate to the person making the decision.

Informal Interpreters

Informal interpreters may include the family members, friends, legal guardians, service representative or advocates of the LEP client. Informal interpreters may be appropriate depending upon the circumstances and subject matter. However in many circumstances, informal interpreters, especially children, are not competent to provide quality and accurate interpretations, there may be issues of confidentiality, competency or conflict of interest.

An LEP person may use an informal interpreter of their own choosing and expense in place of or as a supplement to the free language assistance offered by PHA. If possible, PHA should accommodate a LEP client's request to have an informal interpreter. In these cases the client and interpreter should sign a waiver of free interpreter services.

PHA may risk noncompliance if it requires, suggests, or encourage a LEP client to use an informal interpreter. If a LEP client prefers an informal interpreter, after PHA has offered free interpreter services, the informal interpreter may interpret. If a LEP client wants an informal interpreter, PHA may also have a formal interpreter present.

Outside Resources.

Outside Resources may include community volunteers and PHA residents or Section 8 participants. Outside Resources may be used for interpretive services public or informal meetings or events.

Emergency Situations; any interpreter may be used in an emergency situation. PHA should first respond to the emergency and follow-up with language assistance as appropriate.

Document use of Interpreter; PHA staff will document in the LEP client's file or record when an interpreter is used during the application process to a PHA program or during a public housing grievance procedure.

GUIDELINES FOR USING AN INTERPRETER

State the purpose of your communication and describe the type of information you may convey.

Enunciate your words and avoid contractions such as "can't" which can be easily misunderstood. Instead say, "cannot". Speak in short sentences, expressing one idea at a time and allow the information to be interpreted. Avoid the use of double negatives, e.g.,

"If you don't appear in person, you won't get your benefits." Instead say, "You must come in person in order to get your benefits." Speak to the LEP client and not to the interpreter. Avoid using slang.

Provide brief explanations of technical terms or terms of use, such as recertification, income disregard and minimum rent.

Occasionally ask if the interpreter understands the information or if you should slow down or speed up your speech. If the interpreter is confused, the client may also be confused.

Occasionally ask if the LEP client understands the information. You may have to repeat or clarify some information by saying it in a different way.

Be patient and thank the interpreter.

NOTICE OF FREE LANGUAGE ASSISTANCE FOR PHA BUSINESS

Applications for public housing and Section 8 participation will ask applicants if they are LEP and need language assistance for PHA business.

The letter informing clients about recertification will state that clients may contact their eligibility technician to request free language assistance for PHA business.

Each denial to public housing, lease termination and denial of Section 8 participation will state that the client may contact PHA for free language assistance about the action taken.

The public housing monthly rental statement will state that a tenant may contact their property manager for free language assistance for PHA business.

PHA will determine on what other occasions to give notice that a client may request free language assistance for PHA business.

PHA will make a language identification flashcard available to staff.

PRIVATE AND CONFIDENTIAL DATA

PHA Bilingual Staffing, Federal and State law requires PHA to protect private or confidential data. Contract Language Assistance Vendors, Contract language assistance vendors will sign a "State and Federal Data Privacy Statement" form as part of the contract document

Informal Interpreters, when using informal interpreters PHA should have the informal interpreter and client sign a "Waiver of Free Interpretive Services" form.

COLLECTION OF LANGUAGE INFORMATION

The application for public housing and Section 8 shall ask the LEP client to identify their language. The PHA will keep track of those being served by our programs.

FHA STAFF TRAINING

PHA will make the LEP Plan available to staff. PHA will inform new employees in the New Employee Orientations of PHA's duty to offer free language assistance in compliance with federal requirements. PHA Staff who have ongoing contact with LEP clients will attend LEP training. LEP training will include the following:

PHA's duty to offer free language assistance in compliance with federal requirements; The substance of PHA's LEP Plan; How to document a client's language needs; and Identity of the LEP Manager, bilingual staff and contract interpreters.

MONITORING

Periodically, the FHA will review the LEP Plan. We will monitor our LEP policies and practices to ensure that they continue to be effective. A summary report from all the number of PHA clients who are LEP.

A determination as to whether 5% of PHA's clients speak a specific language requiring the translation of documents as provided in Part D-2 listed above.

LEP PLAN DISTRIBUTION AND PUBLIC POSTING

The LEP Plan will be:

Distributed to all FHA supervisors and posted in the Board.

2. Available in FHA Management Offices and the Section 8 Department.

STANDARD OF CARE

The LEP Plan does not create a standard of care, a covenant of habitability or any right to third parties of PHA clients. The Plan does not enlarge PHA's duty under any law, regulation or ordinance. In cases of conflict, the applicable law, regulation or ordinance shall prevail. The Plan is a general guideline as to a standard of care to which PHA aspires.

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