

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require the NBHA 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. The NBHA 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)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- Title 46(a) of the Connecticut General Statute
- 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.

In addition to those laws and regulations listed above the Authority will comply with all applicable State of Connecticut laws or local ordinances and any other legislation and regulation protecting individual rights of residents, applicants or staff that may subsequently be enacted.

2-I.B. NONDISCRIMINATION

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

The NBHA shall not deny any family or individual the opportunity to apply for or receive assistance under the Low Income Public Housing (LIPH) on the basis of race, color, sex, religion, creed, ethnic origin, age familial or marital status, disability, or actual or perceived sexual orientation or gender identity..

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.

Families who are otherwise eligible for HUD programs may not be excluded because one or more members of the family may be LGBT or perceived to be LGBT.

Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:

1. A single person, who may be an elderly person, displaced person, disable person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to:
 - a. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family
 - b. An elderly family
 - c. A near-elderly family
 - d. A disabled family
 - e. A displaced family; and
 - f. The remaining member of a tenant family

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

The NBHA 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

Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by the NBHA, the family should advise the NBHA. HUD requires the NBHA to make every reasonable attempt to determine whether the applicant’s or tenant family’s assertions have merit and take any warranted corrective action.

- Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the NBHA preferably in writing.
- The NBHA will attempt to remedy discrimination complaints made against the NBHA.
- The NBHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD’s Office of Fair Housing and Equal Opportunity (FHEO).

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 accommodations in rules, policies, 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 NBHA must ensure that persons with disabilities have full access to the NBHA’s programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

The NBHA shall provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

The NBHA 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 NBHA, 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.”

Residents should contact their property managers for requests for a reasonable accommodation. Applicants should notify the admissions office of a need for reasonable accommodation.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a rule, 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 rules, policies practices~~ 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 the NBHA, 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), the NBHA 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 a NBHA-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 NBHA staff

- Displaying posters and other housing information in locations throughout the NBHA'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 the NBHA 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 NBHA's programs and services.

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

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

If a person's disability is obvious or otherwise known to the NBHA, 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 NBHA, the NBHA 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 NBHA 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 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 NBHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The NBHA may 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 NBHA shall 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 NBHA, or fundamentally alter the nature of the NBHA's operations. An undue administrative burden is one that requires a fundamental alteration of the essential functions of the NBHA (i.e., waiving a family obligation).

Requests for accommodations shall be assessed on a case-by-case basis. The determination of undue financial and administrative burden shall be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the NBHA 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 NBHA 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 NBHA may verify the need for the requested accommodation.

After a request for an accommodation is presented preferably in writing, the NBHA will respond, in writing, within 10 business days. In accordance with the terms of the Reasonable Accommodation policy.

If the NBHA 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 NBHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If the NBHA 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 NBHA's operations), the NBHA 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 the NBHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the NBHA will notify the family, in writing in Accordance with terms of the Reasonable Accommodation policy. The notice will inform the family of the right to appeal the NBHA'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 [24 CFR 8.6].

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

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

- PIH 2002-01 (HA), Accessibility Notice
- 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
- This policy, the Admissions and Continued Occupancy Policy (ACOP), describes the key policies that govern the NBHA's responsibilities with regard to physical accessibility.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

The NBHA shall provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation or feels that the alternative suggests inadequate, they may request an informal hearing to review the NBHA's decision. (Refer to Chapter 14, Grievances and Appeals). Reasonable accommodation will be made for persons with a disability that requires an advocate, or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

The NBHA shall provide reasonable accommodation for persons with disabilities to participate in the hearing process.

2-II.I. REASONABLE ACCOMMODATION WAIT LIST:

As required, the NBHA will maintain a separate wait list for Reasonable Accommodation requests that have been granted, but can not be immediately implemented. The wait list will be organized by date of granting of reasonable accommodation.

Note: See Housing Authority of the City of New Britain "Reasonable Accommodation Policy".

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

It is the goal of the NBHA to be accessible to all residents of the City of New Britain, regardless of race, color, or national origin. Therefore, we will endeavor to provide all families the same high quality customer service no matter what language they speak.

The NBHA 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.

2-III.B. ORAL TRANSLATION

In order to serve limited English proficiency families, the Authority is implementing the following activities:

The NBHA 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 NBHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAa, 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 NBHA. The interpreter may be a family member or friend.

1. The NBHA has identified staff who speaks Spanish. Or other languages, an interpreter will be called to assist the staff person in serving the family.
2. When the number of families speaking one non-English language exceeds 5% of the number of program participants, the NBHA will translate “Important” documents into this language. “Important” is defined as those documents addressing safety, participant rights, participant obligations, or communication regarding the loss of assistance.

2-III.C. WRITTEN TRANSLATION

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

- The NBHA 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 NBHA 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

In order to serve limited English proficiency (LEP) families, the NBHA is implementing the following activities:

- 1) The NBHA has identified staff who speak American Sign Language and Spanish to assist with these languages. For other languages an interpreter will be called to assist the staff person in serving the family.
- 2) The NBHA will actively recruit staff that speak, read and write in the language needed for a majority of the families.
- 3) The NBHA will encourage the use of community volunteers for interpreters and translators.
- 4) The NBHA will analyze the various kinds of contracts 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.

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 means (1) an individual who has a physical or mental impairment that substantially limits one or more major life activities, (2) an individual who is regarded as having such impairment and (3) an individual with a record of such impairment. As used in this definition, the phrase “physical or mental impairment” includes, but is not limited to:

- a. Such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus Infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism.

“Major life activities” means those activities that are of central importance to daily life, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing and learning.

“Substantially limits” suggests that the limitation is “significant” or “to a large degree”.

The definition of disability does not include any individual who is an alcoholic whose current use of alcohol prevents the individual from participating in the public housing program or activities. This Policy does not apply to individuals with a disability whose tenancy or whose participation, by reason of such current alcohol abuse, would constitute a “direct threat” to property or the safety of others, unless the threat can be eliminated or significantly remedied by reasonable accommodation.

A determination of “direct threat” must rely on an individualized assessment based on reliable subjective evidence considering (1) the nature, duration and severity of the risk of injury, (2) the probability that injury will actually occur, (3) whether there are any reasonable accommodations will eliminate the direct threat and (4) whether the individual has received intervening treatment or medication that has eliminated the direct threat.

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 definition of 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 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 public housing program, yet an accommodation is needed to provide equal opportunity.