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 procedures. The responsibility to further nondiscrimination pertains to all areas of the PHA’s public housing 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 public housing 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 public housing 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**

This section provides the list of applicable federal nondiscrimination laws. The PHA must also fully comply with any state and local laws, ordinances and regulations governing fair housing and equal opportunity, protecting the rights of tenants, applicants or staff.

**☑ Decision Point: Does the PHA have state or local laws, ordinances or regulations governing nondiscrimination?**

Things to Consider

* The PHA may have state and local nondiscrimination laws, ordinances or regulations. If so, the PHA should list those laws.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

No state or local nondiscrimination laws or ordinances apply.

🞎 *Option 2: Use another PHA-established policy, taking state and local laws and ordinances into account. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**2-I.B. NONDISCRIMINATION**

**☑ Decision Point: Will the PHA identify any additional protected classes?**

Things to Consider

* The purpose of this policy is to ensure the PHA treats applicants and residents fairly and consistently, and especially avoids discriminatory practices based on the federally protected classes of race, color, sex, religion, familial status, age, disability, or national origin, as well as additional protections afforded under the regulations and executive orders with regard to gender identity, sexual orientation, and marital status. This obligation is central to HUD and the PHA. However, the PHA should also check state and local laws and ordinances and add to the federally-protected groups any additional protected group or groups.
* Some state or local laws prohibit discrimination based on military status. If your state or locality does have such a law, you must include this protection in your Admissions and Continued Occupancy Policy, and you must not adopt the default policy as-is.
* Some state or local laws also prohibit discrimination based on source of income. Once again, if your state or locality has such a law, it must be included in your ACOP.
* Some state or local laws protect other classes of persons from discrimination. The PHA must apply any applicable laws or ordinances to this section.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA does not identify any additional protected classes.

🞎 *Option 2: Use another PHA-established policy, taking state and local laws and ordinances into account. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**2-I.C. DISCRIMINATION COMPLAINTS**

**General Housing Discrimination Complaints**

**☑ Decision Point: How will the PHA handle complaints from applicants or residents who believe that they have been subject to unlawful discrimination?**

Things to Consider

* If the PHA has designated an employee, committee or department to oversee or coordinate Fair Housing functions, the PHA should mention it here.
* The PHA should establish a flexible, fairly broad policy regarding discrimination complaints.
* In January 2023, HUD published the *Respondent Obligations in Fair Housing Investigations Interactive Diagram*. Option 1 of the model policy is based on this diagram.

🞎 *Option 1:* *Use the language shown below. No changes to the model ACOP are needed.*

Applicants or tenant families 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 investigate and attempt to remedy discrimination complaints made against the PHA. The PHA will also advise the family of their right to file a fair housing complaint with HUD’s Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in PHA lobbies, will reference how to file a complaint with FHEO.

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

🞎 *Option 2: Use another PHA-established policy, taking state and local laws and ordinances into account. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**Complaints under the Equal Access Final Rule [Notice PIH 2014-20]**

**☑ Decision Point: How will the PHA handle complaints from applicants or residents who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Final Rule?**

Things to Consider

* Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins. Below is language that PHAs could opt to include in the ACOP.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule 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.)

🞎 *Option 2: Use another PHA-established policy, taking state and local laws and ordinances into account. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**VAWA Complaint Processing [Notice FHEO 2023-01]**

**☑ Decision Point: How will the PHA handle complaints from applicants or residents related to their status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking?**

Things to Consider

* A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.
* Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

🞎 *Option 1:* *Use the language shown below. This language would need to be inserted to the ACOP are needed.*

Applicants or tenant families who wish to file a VAWA complaint against the PHA may notify the PHA either orally or in writing.

The PHA will advise the family of their right to file a VAWA complaint with HUD’s Office of Fair Housing and Equal Opportunity (FHEO). The PHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO’s online complaint form via mail, email, or telephone.

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

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

🞎 *Option 2: Use another PHA-established policy, taking state and local laws and ordinances into account. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

**2-II.A. OVERVIEW**

**☑ Decision Point: What will the PHA do to ensure accessibility to the program?**

Things to Consider

* According to 24 CFR Parts 1, 8 and 100, persons with disabilities must be afforded opportunities equal to that afforded others. In order to carry this out, the PHA should inquire of all applicants and resident families whether anyone in the family needs an accommodation. There is no HUD requirement as to how, specifically, the PHA must notify families of their right to request a reasonable accommodation. It is in the best interests of applicants, residents and the PHA, however, for the PHA to inform applicants and resident families in key documents, such as intake, reexamination, and notices of adverse action, of their right to make such requests.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

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.

🞎 *Option 2: Use another PHA-established policy, taking state and local laws and ordinances into account. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**2-II.B. Definition of REASONABLE Accommodation**

A person with a disability may require special accommodations in order to have equal access to the public housing program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service. **No policy decisions are required.**

**2-II.C. Request for an Accommodation**

**☑ Decision Point: What process will the PHA use to process requests for reasonable accommodation?**

Things to Consider

* The Joint Statement of the Departments of HUD and Justice: Reasonable Accommodation under the Fair Housing Act, issued May 17, 2004, clarified that, while it is usually helpful to both the requester and the PHA to have the request for a reasonable accommodation made in writing, the PHA must give appropriate consideration to reasonable accommodation requests even if the requester makes the request orally or does not use the PHA’s preferred forms or procedures for making such requests.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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.

🞎 *Option 2: Use another PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**2-II.D. Verification of Disability**

Before providing an accommodation, the PHA must determine that the person meets the applicable definition of a person with a disability, and that the accommodation will enhance the family’s access to the PHA’s programs and services. Verification policies are contained in Chapter 7.

**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, Notice PIH 2010-26].

**☑ Decision Point: What process and timeline will the PHA use to review a request for an accommodation?**

Things to Consider

* The policy incorporates guidance from the Joint Statement of the Departments of HUD and Justice: Reasonable Accommodation under the Fair Housing Act, issued May 17, 2004, and their recommendation that when a PHA refuses a requested accommodation, the PHA should discuss with the requester whether there is an alternative accommodation that would meet the requester’s disability-related needs.
* The model policy gives the PHA 10 business days (the standard used throughout much of the ACOP) to respond to the request.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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

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

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 public housing 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. The notice will inform the family of the right to appeal the PHA’s decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

🞎 *Option 2: Use another PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments [24 CFR 8.6]**

**☑ Decision Point: How will the PHA assure effective communication for hearing-impaired and visually impaired persons?**

Things to Consider

* 24 CFR 8.6(a)(1) states that the PHA shall take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public and shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity receiving federal financial assistance.
* 24 CFR 8.6(a)(2) states that where a recipient of federal funds communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD’s) or equally effective communication devices shall be used.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**2-II.G. PHYSICAL ACCESSIBILITY**

This section describes regulatory requirements related to physical accessibility. **No policy decisions are required.**

**2-II.H. denial or Termination of Assistance [24 CFR 966.7]**

This section explains that a 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. **No policy decisions are required.**

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

**2-III.A. OVERVIEW**

Under Title VI of the Civil Rights Act, recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP).

Executive Order 13166 requires implementation of this provision of Title VI of the Civil Rights Act. On January 22, 2007, in the *Federal Register,* HUD published a notice explaining the responsibilities of recipients of federal financial assistance to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP).

**2-III.B. ORAL INTERPRETATION**

**☑ Decision Point: What measures will the PHA take to ensure that oral language assistance measures are sufficient?**

Things to Consider

* The *Federal Register* notice suggests affirmative steps the PHA can take to ensure that different oral language assistance measures are sufficient for the different types of programs or activities. However, HUD does not offer “safe harbor” guidance regarding oral interpretation measures, thus giving PHAs latitude and discretion based on need, PHA resources, availability of services in the community, and other factors.
* However, Notice PIH 2020-32, issued November 20, 2020, does offer guidance with respect to the types of preferred interpretation services if the PHA chooses to conduct informal hearings or grievance hearings remotely. The notice is explicit that remote interpretation using video is preferred over voice-only and that PHAs cannot rely on minors to interpret in this situation. If the PHA offers these functions remotely, Option 1 should be selected.
* If the PHA chooses not the adopt informal hearings or grievance hearings in Chapter 14, the PHA should select Option 2.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

The PHA will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote hearings, however, the PHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

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 PHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the PHA will not rely as on the minor to serve as the interpreter.

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 and possible, 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.

🞎 *Option 2:* *If the PHA does not offer remote hearings, select the option below.*

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

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 and possible, 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.

🞎 *Option 3:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**2-III.C. Written Translation**

**☑ Decision Point: What measures will the PHA take to ensure that written translation measures are sufficient?**

Things to Consider

* Regarding written translation, the *Federal Register* notice of January 22, 2007, provides “safe harbor” guidance regarding written translation. “Safe harbor” means that if a PHA provides written translations under this guidance, such action will be considered strong evidence of compliance.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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 PHA 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.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**2-III.D. IMPLEMENTATION PLAN**

**☑ Decision Point: Will the PHA develop a written language assistance plan (LAP)?**

Things to Consider

* The January 22, 2007, *Federal Register* notice states that after completing the four-factor analysis and deciding what language services are appropriate, a PHA should develop an implementation plan. However, PHAs have considerable flexibility in developing this plan. Furthermore, the notice states that PHAs serving very few LEP persons and PHAs with very limited resources may choose not to develop a written language assistance plan (LAP). However, the absence of a written LAP does not change the obligation to ensure meaningful access by LEP persons.

🞎 *Option 1:* *Use the model ACOP language shown below. No changes to the model ACOP are needed.*

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 language assistance plan (LAP), 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 LAP, 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 LAP.

🞎 *Option 2:* *Use PHA-established policy. Edit the model ACOP language or delete it and insert the PHA’s policy.*

**FINALIZING THE DOCUMENT**

Take a final look at the changes you have made in this chapter of the ACOP  
Have you:

(1) Added or subtracted any exhibits at the end of the chapter?  Yes  No.

(2) Added, subtracted or reordered any major sections (at the A, B, or C level?)  Yes  No

If you answered yes to either of these questions, you must adjust the chapter to match your changes.

**☑ Decision Point: Are any changes required to this chapter?**

No. No changes to the model policy are needed.

Yes. Edits only. Edit and insert PHA language as appropriate.

Yes. PHA changed the organization of the chapter. Adjust the chapter to reflect your changes **and** review the rest of the document to make sure that any references to section numbers are correct.

**☑ Decision Point: Are changes required in other chapters as a result of changes to this chapter?**

Check the “Things to Consider” under each decision point to identify if changes to the model policy will require changes to policies in other chapters of the ACOP.

No. Changes to other chapters are not necessary.

Yes. Changes to the following chapters are also required: