

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 GHURA's housing choice voucher (HCV) Program operations.

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

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of GHURA 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 GHURA 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 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. GHURA 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)
- 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.

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. GHURA 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.

GHURA Policy

GHURA will not discriminate on the basis of marital status or sexual orientation, receipt of public assistance, political beliefs or other affiliations.

GHURA 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; and/or
- 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

GHURA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, GHURA 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 GHURA or an owner, the family should advise GHURA. HUD requires GHURA 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, GHURA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

GHURA Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the GHURA Fair Housing/504 Coordinator. GHURA will attempt to remedy discrimination complaints made against GHURA.

GHURA 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).

To further its commitment to full compliance with applicable Civil Rights laws, GHURA will provide Federal and local information to applicants for and participants in the Section 8 Housing Choice Voucher Program regarding discrimination and any recourse available to them if they believe they may be the victims of discrimination. Such information will be made available with the application and all applicable fair housing information and discrimination complaint forms will be made available at the GHURA office. In addition, all written information and advertisements will contain the appropriate equal opportunity language and logo.

GHURA will assist any family that believes they have suffered illegal discrimination by providing them copies of the housing discrimination form. GHURA will also assist them in completing the form, if requested; and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

GHURA'S Equal Housing Plan

GHURA is committed to promoting equal housing opportunities for all by implementing affirmatively furthering fair housing plans. GHURA will implement non-discrimination practices in the Authority's housing programs and add measures that would ensure goals and objectives to affirmatively further fair housing are met.

Employee Responsibility: every GHURA employee will be required to enforce fair housing plans. Employees who do not comply or choose to intentionally violate fair housing requirements set forth herein will be subject to disciplinary action. Employees are responsible for notifying their supervisors or the EEO officer of all fair housing violations or concerns.

GHURA will implement the following methods to meet goals and objectives in affirmatively furthering fair housing:

1. **Advertise extensively in the community regarding any vacant positions at GHURA and any housing opportunities.** GHURA will advertise for any FSS Coordinator position or any other vacant position through various local media, the Internet, with non-profit service providers and government agencies and other available methods designed to effectively reach very low and low-income families, including persons with disabilities.

GHURA will advertise through a variety of media that are likely to reach a diverse population, including, but not limited to:

- Local newspapers of general circulation
- Community bulleting through various village mayors' offices
- Minority, faith-based and cultural group organizations
- Radio and television stations

2. **Market the program to all eligible persons, including persons with disabilities and persons with limited English proficiency.** GHURA's HCV program will provide outreach presentations and publications to market available housing programs and opportunities. Information will be made available about housing programs and opportunities listed below, through various methods of communication, including, but not limited to:

- Opening of the waiting list for the HCV program
- Opening of the waiting list for the public housing program
- The Family Self-sufficiency program

- Changes in policies and procedures under the HCV and/or Public Housing programs that may affect the status of a person on the waiting list or those participating in these programs; and
- General information regarding GHURA's housing assistance program.

3. Provide fair housing counseling services or referrals to fair housing agencies: A Section 8 housing choice voucher program tenant packet is provided that includes a brochure that explains fair housing and hearing procedures. A voucher briefing is also provided to all selected applicants and the hearing process is explained.

4. Inform participants how to file a fair housing complaint including providing the toll-free number for the housing discrimination hotline: GHURA will assist individuals and families who allege they have encountered discrimination while in search of housing. Families will be informed of their rights and how to file a fair housing complaint including providing the HUD toll-free number 1-800-669-9777 to the housing discrimination hotline. GHURA will also make a list of persons or organizations that can assist them with discrimination allegations and investigations, including the following:

- GHURA's Fair Housing Coordinator
- The Guam Division for Senior Citizens
- The Guam Division of Integrated Services for Disabilities
- The Consumer Division of the Guam Attorney General's Office

5. Recruit landlords and service providers in areas to expand housing choice to program participants: In an effort to promote greater housing opportunities for very low and low income families, and persons with disabilities, the HCV program will:

- Continue to encourage all Section 8 families to find suitable and eligible rental housing units in non-poverty areas in the private market; and
- Continue to invite and encourage landlords and property owners with units outside areas of low-income minority concentration to participate in the Section 8 Program through the following:
 - Conducting new landlord workshops at least annually;
 - Responding to requests for presentations at various meeting and conferences for property owners and managers;
 - Mailing informational packets to participating and prospective landlords/owners as requested; and
- Offer families the portability option for the purpose of moving families out of poverty-stricken areas.

A. 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.

GHURA must ensure that persons with disabilities have full access to GHURA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the HCV program.

GHURA Policy

GHURA 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 GHURA, 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 will be indicated as the contact for requests for accommodation for persons with disabilities.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A person with a disability may require special accommodations in order to have equal access to the HCV program. The types of reasonable accommodations GHURA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the housing authority, 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, GHURA must 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 GHURA range) if GHURA 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 GHURA staff; and/or

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

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

GHURA Policy

GHURA will encourage the family to make its request in writing. However, GHURA 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, GHURA 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 GHURA's programs and services.

If a person's disability is obvious or otherwise known to GHURA, 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 GHURA, GHURA 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, GHURA 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].
- GHURA must request only information that is necessary to evaluate the disability-related need for the accommodation. GHURA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that GHURA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, GHURA will dispose of it or redact from the document the specific diagnosis, treatment, etc. In place of the information, GHURA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

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].

GHURA 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 GHURA, or fundamentally alter the nature of GHURA'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 overall size of GHURA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, GHURA 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 GHURA may verify the need for the requested accommodation.

GHURA Policy

After a request for an accommodation is presented, GHURA will respond, in writing, within 15 business days.

If GHURA 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 GHURA's operations), GHURA 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 GHURA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, GHURA will notify the family, in writing, of its determination within 15 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 GHURA to ensure that persons with disabilities related to hearing and vision have reasonable access to GHURA's programs and services [24 CFR 8.6].

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

GHURA 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 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 GHURA 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

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

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

GHURA'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 GHURA's responsibilities with regard to physical accessibility.

- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The PHA plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of GHURA 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, GHURA will include a current list of available accessible units known to GHURA 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.

GHURA's HCV program will make programs accessible to all applicants and participants, including persons with disabilities by holding briefings, meetings and interviews in buildings that are easily accessible.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

GHURA'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 GHURA'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 hearing process.

When a participant family's assistance is terminated, the notice of termination must inform them of GHURA's informal hearing process.

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

GHURA 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, GHURA 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 GHURA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on GHURA.

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, GHURA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

GHURA Policy

GHURA 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, GHURA will pool resources with other PHAs, and will standardize documents.

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 GHURA. The interpreter may be a family member or friend. Due to the unique language groups spoken on Guam, GHURA recognizes that a family member

or friend may be the only interpreter available.

2-III.C. WRITTEN TRANSLATION

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

GHURA Policy

In order to comply with written-translation obligations, GHURA will provide written translations of vital documents for each eligible LEP language group that constitutes a significantly represented population. Due to the unique language groups spoken on Guam, GHURA recognizes that written translation services may be limited.

2-III.D. IMPLEMENTATION PLAN

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

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

GHURA Policy

If GHURA 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.