

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring the GBHA 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 GBHA's public housing operations.

This chapter describes HUD regulations and GBHA 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 GBHA 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.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons (LEP's). This part details the obligations of the GBHA 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

Federal laws require the GBHA 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, gender identity, marital status, perceived sexual orientation, and disability. It is the policy of the Housing Authority of the City of Green Bay to fully comply with all federal, state, and local nondiscrimination laws, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968
- 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
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. The GBHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin, gender identity, marital status, or perceived sexual orientation. Familial status includes children under the age of

18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The GBHA will not use any of these factors to:

- Deny 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 that availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families

The GBHA will take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the GBHA will provide information to public housing applicant families about civil rights requirements.

Discrimination Complaints

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

GBHA Policy

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

The GBHA will attempt to remedy discrimination complaints made against the GBHA.

The Housing Authority of the City of Green Bay will refer any family to the appropriate housing agency when the family is seeking to file a complaint on the basis of discrimination.

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 GBHA ensures that persons with disabilities have full access to the public housing programs and services. This responsibility begins with the first inquiry of an interested family or individual and continues through every area of the public housing program [24 CFR 8].

The GBHA will 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 966.76(b)].

GBHA Policy

The GBHA will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, re-examination documents, and notices of adverse action by the GBHA, 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 [appropriate management].”

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

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary to for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an “undue financial and administrative burden” for the GBHA, 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 GBHA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and re-examinations to be completed by mail
- Providing “large-print” forms
- 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 GBHA-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 GBHA 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 GBHA 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 GBHA's programs and services.

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

GBHA Policy

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

If a person's disability is obvious or otherwise known to the GBHA, 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 GBHA, the GBHA 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 GBHA will follow verification policies located in Chapter _____. All information related to a person's disability will be treated in accordance with the confidentiality policies. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability.

- Third part verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical profession, 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 GBHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The GBHA 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, Notice PIH 2010-26]*

The GBHA will 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 GBHA, or fundamentally alter the nature of the GBHA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the GBHA 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 GBHA may enter into discussion and negotiation with the family or individual, request more information from the family, or may require the family or individual to sign a consent form so that they GBHA may verify the need for the requested accommodation.

GBHA Policy

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

If the GBHA denies a request for an accommodation because there is no relationship found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the GBHA's decision through an informal hearing or the grievance process.

If the GBHA 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 GBHA's operations), the GBHA 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 GBHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the GBHA 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 or individual. The notice will inform the family of the right to appeal the GBHA's decision through an informal hearing or the grievance process.

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

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

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

GBHA 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 GBHA 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 to receive, interpret, and explain housing materials and be present at all meetings.

2-II. G. PHYSICAL ACCESSIBILITY

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

- PIH 2002-01, 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

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

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the GBHA's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01 Accessibility Notice (which must be posted in the public housing office in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The GBHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of GBHA 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.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

The GBHA'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 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the GBHA's grievance policy [24 CFR 966.4(1)(3)(ii)].

When reviewing reasonable accommodation requests, the GBHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to the GBHA's decision to deny or terminate the assistance. If a reasonable accommodation will allow the family to meet the requirements, the GBHA must make the accommodation [24 CFR 966.7].

In addition, the GBHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

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

2-III.A. OVERVIEW

Under Title IV 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).

The GBHA 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 applications and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, the GBHA 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 public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and important of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the GBHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the GBHA.

GBHA Policy

The Housing Authority of the City of Green Bay will attempt to have bilingual staff or access to individuals who are fluent in languages other than English in order to assist limited English

proficient families. The GBHA will network with other agencies and residents to assist in providing translation services in other languages. It is the resident's responsibility to arrange for translation of correspondence, at arranged appointments, and at court proceedings.

2-III.B. ORAL INTERPRETATION

The GBHA will offer, competent interpretation services free of charge, upon request, to the LEP person.

GBHA Policy

The GBHA 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 GBHA. The interpreter may be a family member or friend.

The GBHA 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, according to its language assistance plan (LAP), the GBHA 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.

2-III.C. WRITTEN TRANSLATION

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

GBHA Policy

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

The GBHA will provide written translations of vital documents for each eligible LEP language group that constitutes five 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 five percent trigger, the GBHA 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.

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; genitor-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 it’s 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” include, 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 live activities.

“Is regarded as having an impairment” is defined as having 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 GBHA) 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
- Person who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing 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 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.