

**SECTION 504-DISABILITY
ISSUES
and
TITLE VI-LIMITED ENGLISH
PROFICIENCY**

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**SECTION 504
UNDERSTANDING
DISABILITY
ISSUES**

<http://www.hud.gov/offices/fheo/disabilities/sect504.cfm>

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504faq

**Section 504 of the
Rehabilitation Act of 1973**

Prohibits discrimination based
on **Disability** in any program
or activity receiving Federal
financial assistance

Who Must Comply?

Recipients of Federal Financial Assistance, including, but not limited to:

- Public Housing Authorities
- Tribal Housing Authorities
- HUD Assisted Housing Providers (eg. 202/811 housing)
- Activities funded with CDBG monies
- CDBG Programs for Indian Tribes and Alaska Native Villages
- NAHASDA Recipients

Who is NOT a Recipient of Federal Financial Assistance under Section 504?

- The ultimate beneficiary of the Federal Financial Assistance, such as a family that receives Community Development Block Grant (CDBG) or HOME funds for the rehabilitation of an owner-occupied unit
- A private landlord who accepts Section 8 tenant-based vouchers in payment for rent from a low income individual

DEFINITION OF DISABILITY

- A physical or mental impairment which substantially limits one or more major life activities or
- A record of such an impairment or
- Being regarded as having such an impairment



Who is Disabled?

- Physical or Mental impairments include, but are not limited to:
 - Visual Impairments
 - Mobility Impairments
 - Hearing impairments
 - AIDS
 - Mental/Emotional illness

Section 504 Requires...

...that a person with a disability be evaluated using the same objective criteria that are applied to persons without disabilities.

... recipients to effectively communicate with disabled applicants, beneficiaries, and members of the public

Section 504

Does NOT require that a person with a disability be accepted without regard to eligibility requirements or his or her ability to meet standard, nondiscriminatory tenant selection and screening criteria.

Section 504 Key Elements

Self Evaluations

Accessibility

Reasonable
Accommodation

504 Self Evaluations

Assessment of current
policies and practices

Plan to modify & correct
any policies/practices
that do not comply

Accessibility

New
Construction
(UFAS)

5% for the
mobility
impaired

2% for the
hearing &
vision
impaired

Rehabilitation

15 or more
units

Cost is 75% or
more of the
replacement
cost

Any other
Additional
Alterations

accessible to
the maximum
extent feasible

One of the basic tenets of Section 504 is that programs and services be conducted in the most integrated setting appropriate.

In terms of housing, this means that the housing provided to disabled individuals is not separate or unnecessarily segregated.

Distribution of Accessible Dwellings

Various Locations

Different sizes

Different amenities



Occupancy of Accessible Dwellings

Adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities.

Maximize use by disabled persons who require the accessible features of the unit

Reasonable Accommodation

A reasonable accommodation is a change, adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job.

Reasonable Accommodation

Reasonable accommodations may include, for example, those which are necessary in order for the person with a disability to use and enjoy a dwelling, including public and common use areas.

Reasonable Accommodations-Examples

- Assigned accessible parking spaces
- Alternate means to pay rent (mail versus in-person)
- Assistance Animals
- Ramps
- Grab Bars
- Roll In Showers



Who Pays?

Recipients are required to make and pay for accommodations, such as structural modifications (physical changes) to dwelling units and common areas, when such accommodations are necessary for a person's disability and when they are not an undue financial and administrative burden



What a Recipient CAN ask...

A Recipient CAN ask for verification that the person is disabled and needs the accommodation because of the disability

- This can be verified from a:
 - Doctor
 - Medical professional
 - Peer support group
 - Non-medical service agency
 - A reliable third party who is in a position to know about the individual's disability

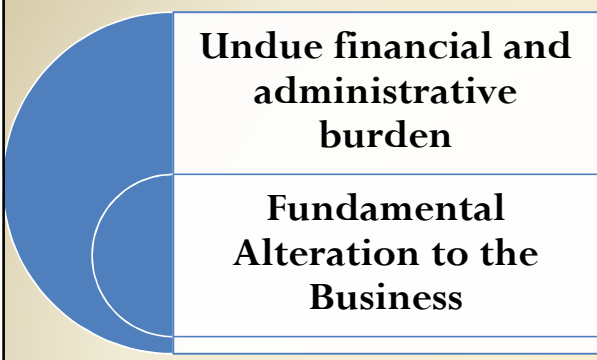
A Recipient CANNOT ask a disabled person...

- What the nature and severity of their disability is
- Why the accommodation is needed
- If they take medication
- How severe their disability is
- Why they get SSI
- To see their medical records or talk to their doctor
- Whether they have ever been hospitalized

When Must a Reasonable Accommodation Be Granted?

- The person is disabled
- There is a nexus between the disability and the accommodation
- It is reasonable

Reasonable vs. Unreasonable?



Undue Financial/Administrative Burden

Evaluate the financial and administrative impact the modification would have on your budget



Example:

Can you afford to install a \$70,000 elevator?

Fundamental Alteration

Evaluate whether you are being asked to provide a service not normally provided in your business

Examples:

Distributing Medications?

Providing Care Giver Services?

What to do next?

Reasonable

Provide Accommodation

Not Reasonable

Interactive Dialogue with disabled person to implement alternate accommodation

Title VI and Limited English Proficiency

<http://www.hud.gov/offices/fheo/lep.xml>

**Title VI of The Civil Rights Act of
1964**

**Prohibits discrimination on the bases
of race, color, national origin
in programs and activities receiving
Federal financial assistance**

Who Must Comply?

Recipients of Federal Financial Assistance
include, but are not limited to:

- Housing Authorities

- HUD Assisted Housing Providers (eg.
202/811 housing)

- Activities funded with CDBG monies

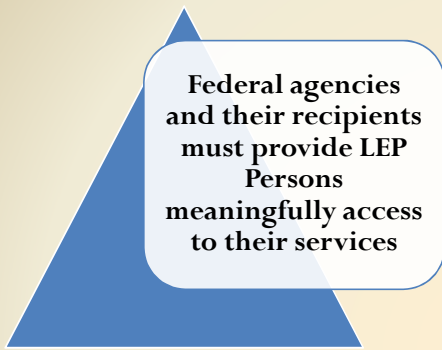
**NAHASDA Indian Housing Block
Grant (IHBG) funds**

- Title VI does not apply to recipients of IHBG
funds if:
 - The affordable housing project is located on land
where the tribe has sovereignty/civil jurisdiction
regardless of funding; or
 - The affordable housing project is funded solely with
IHBG funds and is located on land subject to State or
local law; or
 - The affordable housing project is funded with IHBG
and non-federal funds and located on land subject to
State or local law.

TITLE VI AND LIMITED ENGLISH PROFICIENCY (LEP)

Failure to ensure LEP persons can effectively participate in or benefit from federally funded activities and programs may result in National Origin discrimination under Title VI

Executive Order 13166 of August 11, 2000



HUD's Title VI LEP Guidance

- Defining LEP
- The Four Factor Analysis
 - Number or proportion of LEP population serving
 - Frequency of contact with LEP persons
 - Importance of Service/Benefit
 - Resources Available

Defining LEP

- English is not the primary language
- Limited ability to read, write, speak or understand English

Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Area

- The greater the number or proportion of LEP persons from a certain language group within the eligible service area, the more likely language services are needed
- The Eligible Service area is the area from which the program would expect to draw its applicants and beneficiaries

Tools to Determine Number or Proportion of LEP Persons Served

- American FactFinder-can search by ethnicity and country of origin within a given geographic area-data can be broken down into how well English is spoken
<http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>
- For example, can search by area code and obtain data about Languages Spoken at Home
http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml

Tools to Determine Number or Proportion of LEP Persons Served

- Migration Policy Institute data – Data shows estimate numbers of LEP individuals within a county, by actual numbers and percentages
- Data is taken from the American Community Surveys

<http://www.migrationpolicy.org/sites/default/files/datahub/LEPstate-countyData.xlsx>

Frequency with which LEP persons come into contact with program

Consider:

- Level of frequency that LEP persons participate in Recipient's program.
- Frequency of contact the Recipient has with all participants in the program

The more frequent the contact, the more likely that enhanced languages services in the language are needed.

Frequency with which LEP persons come into contact with program

Must consider those least likely to apply within the service or market area.

Contact with said groups might be more frequent if Recipient applies targeted outreach to said groups.

Importance of Service/Benefit

A yes to any of the below is strong indication of the service or benefit's importance and therefore language services should be provided.

Is it vital?	Does it have an effect on a person's status in the program?
Is it compulsory for continued participation in the program?	Could denial or delay of access to services or information have serious implications for LEP persons?

Resources Available

Level of resources and costs may have an impact on steps taken

Small recipients with limited budgets
≠
Large recipients with greater budgets

Language Access Plan (LAP)

After completing the four-factor analysis, a Recipient may develop a Language Access Plan to address the identified needs of the LEP populations it services.

While not required, HUD's LEP Guidance recommends all government agencies and recipients of HUD funds have a Language Access Plan on file.

Language Access Plan (LAP)

Elements of an effective LAP:

- Identification of LEP persons who need language assistance
- Identification of language assistance measures
- Description of staff training
- Methods of providing notice to LEP persons
- Process for monitoring and updating the LAP

Meaningful Access

End result should be that the Recipient provides meaningful access to its programs.

Meaningful access means LEP persons have the ability to access Recipient programs and to participate in Recipient services, activities and other benefits.

Minimum Essential Elements of LEP Services

HUD FHEO has determined that, at a minimum, all Recipients, no matter how small, must begin by providing essential elements of LEP services in their service area to ensure meaningful access for LEP persons.

Minimum Essential Elements of LEP Services

The essential elements include:

- Assess the languages used among the eligible population in the Recipient's service area
- Make "I speak" cards readily available in languages that have a significant population (at least 5% or 1000 persons whichever is less) <http://www.lep.gov/ISpeakCards2004.pdf>
- Establish access to a translation line like LanguageLine.
- Make its website accessible to LEP persons

QUESTIONS
