

## **ADA Highlights**

The Americans With Disabilities Act (ADA) was signed into law by President George H.S. Bush on July 26, 1990, and is the most comprehensive formulation of the rights of people with disabilities in the history of the United States. For information on the ADA and what it requires, go to [www.ada.gov](http://www.ada.gov) or 42 U.S.C. §12101*ff*.

The Title II regulations prohibit public entities from discriminating against or excluding people from programs, services, or activities on the basis of disability. Public entities receiving federal funds will find that the Title II requirements are very similar to the requirements of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination in all entities that receive federal financial assistance. Title II extends the requirements of Section 504 to all public entities-whether or not they receive federal funds.

The provisions of Title II fall into four broad areas:

- (1) general nondiscrimination;
- (2) equally effective communications;
- (3) program accessibility; and
- (4) employment.

Housing is not covered by the ADA unless it is housing funded by a state or a local government, housing assistance funded by a state or local government, or a housing referral program. Equal opportunity must be provided through reasonable accommodations in policies, practices, or procedures; effective communication must be ensured through the provisions of auxiliary aids and services; programs must be made accessible through nonstructural programmatic or architectural modifications; and nondiscriminatory employment practices are required, as presented in Title I of the ADA.

Like Section 504, Title II requires public entities to conduct a self-evaluation of policies and practices. If an entity has previously conducted a self-evaluation for Section 504, only programs not previously reviewed must be evaluated. However, because many Section 504 self-evaluations were conducted as long as ten years ago and programs tend to change, the U.S. Department of Justice regulations encourages public entities to conduct a comprehensive review of all current programs.

### **The 5-4-3 Approach to Implementation**

The 5-4-3 Approach to Implementation is a practical and manageable approach to compliance that entities can use to meet their administrative requirements as well as their ongoing goal of making all programs available to people with disabilities.

### **Five Action Steps**

1. Designate a responsible employee

2. Provide Notice of ADA requirement (This notice must be posted and disseminated)
3. Establish a grievance procedure
4. Conduct the self-evaluation
5. Develop a transition plan (Please refer to the ADA checklist included)

#### **Four Principles**

1. Commitment from entity leaders
2. Coordination of compliance activities
3. Involvement of people with disabilities in the self-evaluation
4. Institutionalization of compliance procedures

#### **Three Phases**

1. Planning for compliance
2. Conducting the self-evaluation
3. Implementing Modifications

The self-evaluation must include the following areas: employment practices, non-discrimination in programs and activities, effective communication, and program and facility accessibility. The self-evaluation and transitional plan should be available to the public upon request. The ADA Notice and the Grievance Procedure must be submitted to DOH.

**The Americans With Disabilities**  
**Act Of 1990**  
**Executive Summaries**

## **Executive Summary -- Definition Of Disability**

The ADA's definition of disability is based on the definition used in the under the Rehabilitation Act of 1973.

- ❖ Under this definition, a person with a disability is someone who (1) has a physical or mental impairment that substantially limits that person in some major life activity, or (2) has a record of such an impairment, or (3) is regarded as having such an impairment. This is referred to as the three prong definition.
- ❖ To have a disability, a person must have an actual physical or mental **impairment**—not simply physical **condition**, such as black hair or blue eyes. The dictionary defines an impairment as something that damages or makes something worse in some material respect.
- ❖ To qualify for coverage under the first prong, the disability must affect some form of major life activity, such as walking, talking, breathing, or working as well as any kind of self-care activities such as cooking or bathing.
- ❖ A person has a **substantial** limitation, if he or she has a condition or disease that will last a long time or that has a great affect on the persons ability to perform major life functions. A person who is having knee replacement surgery would be considered disabled during the time prior to the surgery, and the time in which he or she is undergoing surgery or rehabilitation. But it is possible, depending on functionality that the person would be considered not disabled after the surgery and rehabilitation is complete because he or she is able to perform all major life functions without limitation. On the other hand, a person with severe arthritis that affects their ability to lift or carry things would be considered disabled because he or she will have that condition for their lifetime.
- ❖ Under the second prong, a person who is discriminated against because of a past experience with a disability would be covered as someone with a **record** of an impairment. A record can include a history of hospitalizations for a particular impairment or receipt of Social Security Disability payments (SSDI) or Supplemental Security Income (SSI). The person may or may not be disabled but if they have a record of having the impairment, he or she would be protected from discrimination.
- ❖ The third prong covers a person who has no actual disability or has an impairment that does not pose a limitation in any major life activity, but who is nonetheless discriminated against as someone **regarded** as having a disability. This prong has been used to prevent discrimination against persons who may look disabled, but are not, and to prevent discrimination against elderly people who are not disabled but are treated as if they are disabled.
- ❖ The ADA's definition of disability does NOT exclude individuals who:

- have successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;
- is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- is erroneously regarded as engaging in such use, but is not engaging in such use.

❖ However, the ADA's definition of disability does not include the following persons:

- Persons posing a direct threat to the health or safety of others;
- Transvestites;
- Homosexuals;
- Chronic gamblers;
- Current users of illegal drugs.

## **Executive Summary -- Employment Provisions**

- ❖ The ADA's employment provisions cover all employers who have 15 or more employees, the same scope of coverage which exists under Title VII of the Civil Rights Act of 1964.
- ❖ Under the ADA, an employer may not refuse to hire a person with a disability, because of the person's **disability**, when that person is **qualified** to perform the job.
- ❖ A person with a disability is qualified if he or she can perform the essential functions of the job with or without reasonable accommodation.
- ❖ A reasonable accommodation is a change in a job's requirements or structure that an employer can make, which allows the employee with the disability to do the job.
- ❖ There is a limitation on reasonable accommodation. If the accommodation would impose an undue hardship on the employer, it is not required.
- ❖ An undue hardship has been defined as a significant difficulty or expense to the employer, taking into account specifically the size of the business, the resources of the facility involved, the overall resources of the employer, the number of employees, and the nature and cost of the accommodation.
- ❖ Any individual with a disability who poses a "direct threat" to the health or safety of others is not "qualified."
- ❖ Employers are barred from conducting pre-employment medical examinations or making inquiries into the nature or severity of an applicant's disability. Post-offer medical exams may be conducted under prescribed conditions.
- ❖ Employers may not utilize employment tests and criteria that screen out persons with disabilities unless they are job-related and consistent with business necessity.
- ❖ Religious entities may give preference in employment to individuals of a particular religion. They may also require that all applicants and employees conform to the religious tenets of the organization.

## **Executive Summary -- Public Services**

Title II of the Americans with Disabilities Act prohibits discrimination against people with disabilities in programs and activities operated by city, county and state governments. Regulations issued by the U.S. Department of Justice pursuant to this title are modeled after the regulations implementing Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against people with disabilities in programs and activities that receive federal financial assistance from the federal government, and in the operation of the federal government's own program.

## **Executive Summary – Public Accommodations**

- ❖ The ADA prohibits public accommodations from discriminating against people with disabilities.
- ❖ Public accommodations include any business or services to which the public is invited. Examples include: hotels, restaurants, dry cleaners, grocery stores, schools and parks.
- ❖ The ADA prohibits public accommodations from excluding or refusing to serve a person with a disability.
- ❖ Public accommodations are required to make physical access changes in existing building if such changes are “readily achievable” –that is, if they can be accomplished “without much difficulty or expense.” An example would be placing a ramp over one or two steps into a store or widening aisles by moving desks or clothing racks.
- ❖ Public accommodations are required to provide auxiliary aids and services to enable a person with a disability to use the available goods and services. Examples include providing large print materials or tape recordings.
- ❖ Practicality and effectiveness can be considered in choosing among alternative aids and services. For example, a restaurant would not be required to provide menus in Braille if it had its waiters read the menu to a blind person.
- ❖ Public accommodations are not required to provide an aid or service if it would impose an undue burden on the establishment, or if it would fundamentally alter the service or goods provided. The size and nature of the business are considered under the law in determining whether providing an aid or service would be an undue burden. For example, assisting a blind person fill out a rental application would not be considered an undue burden or a fundamental alteration of the of services provided by a landlord. On the other hand, feeding a restaurant patron who is a quadraplegic would most likely be considered an undue burden.
- ❖ All public accommodations designed and constructed for first occupancy after January 26, 1992 must be readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of this section. Structural impracticability includes facilities built on a hill where there is no way to construct a walkway to the front door that meets the design requirements for a ramp. Structural impracticability does not include additional cost or expense.
- ❖ The requirements to make new construction and alterations to existing buildings extend beyond the listed public accommodations and include all commercial facilities, which



include all non-residential buildings whose operations will affect commerce. All new construction must be accessible.

- ❖ All rental offices, offices of real estate professionals, sales offices at a condominium complex, and all public areas of newly constructed residential housing must be accessible in conformance with the ADA. Even though these facilities are usually located in residential housing, they are covered by the ADA as public accommodations.
- ❖ All housing owned by the state or financed by the state must comply with the ADA and with the Federal Fair Housing Amendments Act.
- ❖ With respect to a facility or part thereof that is altered by an establishment in a manner that affects or could affect the usability of the facility, the alterations must, to the maximum extent feasible, make the altered portions of the facility readily accessible to or usable by individuals with disabilities.
- ❖ An owner or manager of a public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.
- ❖ When constructing a new facility, the owner or building is not required to install an elevator in facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

## **Executive Summary – Public Transportation**

### **Public Transportation—**

- ❖ The ADA requires that new vehicles bought by public transit authorities be accessible to people with disabilities.
- ❖ No retrofitting of existing public buses is required.
- ❖ Paratransit service for people with disabilities who cannot use the mainline systems is required, unless providing such service would result in an undue financial burden.
- ❖ Rural and small communities which purchase used buses must make a “good-faith” effort to find accessible used buses.

### **Private Intercity Transit** – (Greyhound, Trailways, Peter Pan, etc.)

- ❖ The requirements of the ADA shall apply to any private entity that provides specified public transportation and any private entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system.

### **Rail Transit** –

- ❖ The ADA requires that new rail facilities must be built accessible.
- ❖ One car per train in existing rail systems must be made accessible..
- ❖ Key rail stations must be made. Amtrak stations must be made accessible within by 2010.
- ❖ Guidelines for the accessibility of rail transit and other types of public transportation can be found at <http://www.access-board.gov/transit/otrb/otrbfinl.htm>

## **Executive Summary – Telecommunications**

- ❖ A summary of the ADA requirements for telecommunications can be found at <http://www.fcc.gov/cgb/dro/trs.html>
- ❖ Each common carrier providing telephone voice transmission services shall provide telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers throughout the area in which it offers services.
- ❖ Speech-to-speech relay service and interstate Spanish language relay service shall be provided by March 1, 2001.
- ❖ In addition, each common carrier providing telephone voice transmission services shall provide, not later than October 1, 2001, access via the 711 dialing code to all relay services as a toll free call.
- ❖ Telecommunication relay services allow persons who use TDD's to carry on telephone conversations with people who do not use TDD's through use of an intermediary person. This effectively opens up communications for people with hearing and speech impairments in a society where most individuals and businesses do not own or use TDD's.
- ❖ A TDD is a machine that sends and receives coded signals over telephone lines to other TDD's. These signals show up as printed words on paper or a screen on each end. In this way, people who cannot hear or speak can communicate—if both parties to a call have TDD's.
- ❖ A relay system sets up an intermediary to whom the person with a TDD places a call. The intermediary receives the coded TDD message and then relays that message, through voice, to the receiving party who does not own a TDD. The intermediary, in turn, receives a voice message from the receiving party and relays that back to the person with the TDD. (The system works vice-versa when the person placing the call does not have a TDD).

## **Executive Summary – Remedies**

- ❖ In employment, the ADA adopts the remedies available to other minorities under Title VII of the Civil Rights Act of 1964. A plaintiff, therefore, has a private right of action and the right to get equitable relief as well as compensatory and punitive damages, costs, and attorneys' fees.
- ❖ No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.
- ❖ It is also illegal to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.
- ❖ In public accommodations and privately funded transportation, the ADA incorporates the remedies available under Title II of the Civil Rights Act of 1964. has a private right of action and the right to get equitable relief as well as compensatory and punitive damages, costs, and attorneys' fees.
  - In the public accommodations section, the ADA gives the Attorney General the right to bring a suit in cases of pattern or practices of discrimination.
- ❖ The telecommunications relay services section of the Act amends the Communications Act of 1934 and essentially used the administrative remedies procedures established under that Act.
- ❖ The public services (including transportation) section of the ADA incorporates the remedies available under Section 505 of the Rehabilitation Act of 1973. These are the remedies currently available for violations of Section 504, which may include injunctive relief and monetary damages.
- ❖ Attorneys' fees are available to a person who prevails in action under all Titles of the ADA.

**U.S. Department of Housing and Urban Development  
COMMUNITY PLANNING AND DEVELOPMENT**

Notice CPD-00-9

Special Attention of:

All Secretary's Representatives

All State/Area Coordinators

All CPD Office Directors

All HOME Coordinators

All HOME Participating Jurisdictions

All CDBG Grantees

All FHEO Field Directors

Issued: December 26, 2000

Expires: December 26, 2001

**SUBJECT:** Accessibility Notice: Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act and their applicability to housing programs funded by the HOME Investment Partnerships Program and the Community Development Block Grant Program

**I. PURPOSE**

The purpose of this Notice is to remind recipients of Federal funds in the HOME Investment Partnerships Program (HOME) or the Community Development Block Grant (CDBG) Program of their obligation to comply with Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act, and HUD's implementing Regulations (24 CFR Parts 8 and 100, respectively), which prohibit discrimination based on disability and establish requirements for program accessibility and physical accessibility in connection with housing programs. This Notice describes key compliance elements for housing assisted under the HOME and CDBG programs. However, recipients should review the specific provisions of the Fair Housing Act, Section 504, and their respective regulations in order to assure that their programs are administered in full compliance. Note with respect to Section 504, this Notice does not address the applicability of Section 504's physical accessibility requirements to homeownership programs financed with HOME/CDBG assistance.

The Notice also recommends that recipients conduct updated self evaluations as a useful tool for enhancing efforts to comply with accessibility requirements in HOME/CDBG programs, as well as to document those efforts.

**Applicability**

This Notice applies to new construction and rehabilitation of housing under the HOME and CDBG programs. Each primary recipient of Federal funds from the HOME or CDBG program is responsible for providing this notice to each organization or other entity participating in the construction or rehabilitation of projects receiving such funding and for establishing policies and practices that it will use to monitor compliance of all covered programs, activities, or work performed by subrecipients, contractors, subcontractors, management agents, etc.

Distribution: W-3-1

## **II. SECTION 504 OF THE REHABILITATION ACT OF 1973**

### **Background**

The HOME and CDBG programs, through State and local governments, provide assistance that may be used for the construction or rehabilitation of affordable housing. HOME and CDBG funds may be used to construct or rehabilitate rental housing, to rehabilitate owner occupied housing, and to finance homeownership programs.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities in the operation of programs receiving Federal financial assistance. HUD regulations implementing Section 504 contain accessibility requirements for new construction and rehabilitation of housing as well as requirements for ensuring that the programs themselves are operated in a manner that is accessible to and usable by persons with disabilities. (See 24 CFR Part 8)

For the purposes of this Notice, the references to multifamily housing projects covered by Section 504 only apply to multifamily rental housing projects.

The Section 504 regulations define "recipient" as any State or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. (24 CFR §8.3) A family that will receive CDBG or HOME funds for the rehabilitation of an owner-occupied unit is not subject to the requirements of Part 8 since it is the ultimate beneficiary of the funds, and not a recipient of Federal financial assistance.

### **New construction**

HUD regulations implementing Section 504 at 24 CFR §8.22(a) require that new construction of multifamily projects be designed and constructed to be readily accessible to and usable by persons with disabilities. Multifamily housing projects are defined at 24 CFR §8.3 as "projects containing five or more dwelling units". Both the individual units and the common areas in the building must be accessible.

For **new construction** of multifamily rental projects, a minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments. An additional 2 percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e. hearing or vision impairments), unless HUD prescribes a higher number pursuant to 24 CFR §8.22(c).

### **Rehabilitation**

**Substantial alterations** - Section 504 requires that if alterations are undertaken to a housing project that has 15 or more units, and the rehabilitation costs will be 75 percent or more of the

replacement cost of the completed facility, then such developments are considered to have undergone "substantial alterations" (24 CFR §8.23 (a)). For substantial alterations of multifamily rental housing, the accessibility

requirements contained in 24 CFR §8.22 must be followed -- a minimum of 5 percent of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent, at a minimum (but not less than one unit), must be accessible to individuals with sensory impairments.

**Other alterations** -- When **other alterations** that do not meet the regulatory definition of substantial alterations are undertaken in multifamily rental housing projects of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of 5 percent of the dwelling units (but not less than one unit) are accessible to people with mobility impairments, unless HUD prescribes a higher number pursuant to 24 CFR 8.23(b)(2). If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible. For this category of rehabilitation the additional 2 percent of the dwelling units requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible. A recipient is not required to make a dwelling unit, common area, facility or element accessible, if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project. (24 CFR §8.23(b)) Therefore, recipients are required to provide access in covered alterations up to the point of being infeasible or an undue financial and administrative burden.

### **Accessibility Standards**

Dwelling units designed and constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) will be deemed to comply with the Section 504 regulation. For copies of UFAS, contact the HUD Distribution Center at 1-800-767-7468; hearing or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339. Accessible units must be, to the maximum extent feasible, distributed throughout the projects and sites, and must be available in a sufficient range of sizes and amenities so as not to limit choice.

## **III. FAIR HOUSING ACT**

### **Background**

The Fair Housing Act, applies to almost all housing sold or rented in the United States. The Fair Housing Act prohibits discrimination in housing practices on the basis of race, color, religion, sex, and national origin. The Fair Housing Act was amended in 1988 to provide protections from discrimination in any aspect of the sale or rental of housing for families with children and persons with disabilities. The Fair Housing Act also establishes requirements for the design and construction of new rental or for sale multifamily housing to ensure a minimum level of accessibility for persons with disabilities. (See 24 CFR 100.200 et. seq.)

Section 804(f)(3)(C) of the Fair Housing Act requires that covered multifamily dwelling units designed and constructed for first occupancy after March 13, 1991, be designed and constructed in a manner that:

- (i) the public and common use portions of such dwellings are readily accessible to and usable by disabled persons;
- (ii) all the doors designed to allow passage into and within the premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
- (iii) all premises within such dwellings contain the following features of adaptive design:
  - (I) an accessible route into and through the dwelling;
  - (II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
  - (III) reinforcements in bathroom walls to allow later installation of grab bars; and
  - (IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

Covered multifamily dwelling units are:

- dwelling units in buildings consisting of 4 or more units served by one or more elevators,  
or
- ground floor dwelling units in other buildings with 4 or more units.

Information about housing designs that provide accessible features in compliance with the Fair Housing Act can be found in the HUD's Fair Housing Accessibility Guidelines which were published in the Federal Register on March 6, 1991 (56 F.R. 9472) and in HUD's Fair Housing Act Design Manual. These can be obtained from the HUD Distribution Center at 1-800-767-7468. Deaf, hard of hearing or speech-impaired individuals also may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

The design and construction requirements in the Fair Housing Act apply only to a building designed and constructed for first occupancy after March 13, 1991. The Fair Housing Act regulations define a building for first occupancy as a building that has never been used for any purpose. Thus, the design and construction requirements in the Fair Housing Act will not apply to rehabilitation projects or activities.

## **Illustrations**

It must be noted that, in many cases, new construction of rental projects funded in the HOME/CDBG Programs must meet both the Fair Housing Act and the Section 504 new construction requirements. Where two or more accessibility standards apply, the housing provider is required to follow and apply both standards, so that maximum accessibility is obtained. The following examples illustrate how these requirements will (or will not) apply.



- A rental building with an elevator constructed with HOME/CDBG funding would be required to have 5% of its dwelling units meet the Section 504 accessibility requirements at 24 CFR 8.22 and the remaining 95% of the dwelling units would be required to comply with the Fair Housing Act design and construction requirements at 24 CFR 100.205. Note: An additional 2% of the dwelling units are required to be accessible for people with vision and hearing impairments.
- A newly constructed 100 unit two-story garden apartment development with no elevator constructed with HOME/CDBG assistance with half (50) of its dwelling units on the ground floor and half (50) on the second floor would be required to have 5 of its ground floor dwelling units built to comply with the Section 504 accessibility requirements at 24 CFR 8.22, and the remaining 45 ground floor dwelling units built to comply with the Fair Housing Act design and construction requirements at 24 CFR 100.205. Note: An additional 2% of the dwelling units are required to be accessible for people with vision and hearing impairments in accordance with Section 504.
- A development consisting entirely of multistory rental townhouses constructed with Federal financial assistance is not a covered multifamily dwelling for purposes of the design and construction requirements of the Fair Housing Act at 24 CFR 100.205 since none of the dwelling units qualify as ground floor units, but would still have to meet the Section 504 5% + 2% accessibility requirements at 24 CFR 8.22. (A townhouse development of 5 or more single story dwelling units would still have to comply with both Section 504 and the Fair Housing Act design and construction requirements at 24 CFR 100.200 et. seq.)

#### **IV. Increasing Program Accessibility**

HUD's Section 504 regulations require that a recipient of Federal financial assistance ensure that its program, when viewed in its entirety, is accessible to persons with disabilities. (24 CFR 8.20) In order to meet this obligation, participants in the HOME/CDBG program must:

To the maximum extent feasible, distribute accessible units throughout the projects and sites, and make them available in a sufficient range of sizes and amenities so as not to limit choice.

Adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities. They must also take reasonable nondiscriminatory steps to maximize use of such units by eligible individuals.

When an accessible unit becomes vacant, before offering the unit to an individual without a disability, offer the unit: first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.

When an applicant or tenant requires an accessible feature or policy modification to accommodate a disability, a federally assisted provider must provide such feature or policy

modification unless doing so would result in a fundamental alternation in the nature of its program or an undue financial and administrative burden. See 24 CFR 8.4, 8.24, and 8.33 for further requirements and guidance.

Providers are required to ensure that information about their programs is disseminated in a manner that is accessible to persons with disabilities. For example, special communication systems can greatly increase the effectiveness of outreach and ongoing communication (e.g., Telecommunications Devices for the Deaf (TTY), materials on tape or in Braille).

Providers must ensure that activities and meetings are conducted in accessible locations.

Participants in the HOME/CDBG program may:

- Ask applicants for information that can demonstrate that they can meet the obligations of tenancy including financial information, references, prior tenancy history, etc. However, housing providers may not inquire into the nature and severity of an applicant or tenant's disability, nor may they ask persons with disabilities questions not asked of all applicants, apply different types of screening criteria, or assess an applicant's ability to live independently.
- Ask if the applicant qualifies for a housing program or unit designed for persons with a disability, when the housing program or unit is designed for such persons.
- Consider including a lease provision that requires a nondisabled family occupying an accessible unit to move if a family with a disability needing that size unit applies and there is an appropriately sized nonaccessible unit available for the relocating family.

## **V. Self-Evaluation**

The Section 504 regulations required recipients of Federal financial assistance to conduct a self-evaluation of their policies and practices to determine if they were consistent with the law's requirements. This self evaluation was to have been completed no later than July 11, 1989. The regulatory deadlines are long past. However, self-evaluation continues to be an excellent management tool for ensuring that a recipient's current policies and procedures comply with the requirements of Section 504.

Involving persons with disabilities in the self-evaluation process is very beneficial. This will assure the most meaningful result for both the recipient and for persons with disabilities who participate in the recipients programs and activities. It is important to involve persons and/or organizations representing persons with disabilities, and agencies or other experts who work regularly with accessibility standards.

Important steps in conducting a self-evaluation and implementing its results include the following:

- Evaluate current policies and practices and analyze them to determine if they adversely affect the full participation of individuals with disabilities in its programs, activities and services. Be mindful of the fact that a policy or practice may appear neutral on its face, but may have a discriminatory effect on individuals with disabilities.
- Modify any policies and practices that are not or may not be in compliance with Section 504 regulations.
- Take appropriate corrective steps to remedy those policies and practices which either are discriminatory or have a discriminatory effect. Develop policies and procedures by which persons with disabilities may request a modification of a physical barrier or a rule or practice that has the effect of limiting or excluding a person with a disability from the benefits of the program.
- Document the self-evaluation process and activities. The Department recommends that all recipients keep the self-evaluation file for at least three years, including records of the
  - individuals and organizations consulted, areas examined and problems identified, and document modifications and remedial steps.

The Department also recommends that recipients periodically update the self-evaluation, particularly, for example, if there have been changes in recipient owned housing stock, such as demolition of housing units and construction and/or alteration of housing, or changes in the programs and services of the agency.

## **VI. Visitability**

### **Visitability Concept**

Although not a requirement, it is recommended that all design, construction and alterations incorporate, whenever practical, the concept of visitability **in addition** to the requirements under Section 504 and the Fair Housing Act.

Visitability is a design concept, which for very little or no additional cost, enables persons with disabilities to visit relatives, friends, and neighbors in their homes within a community.

### **Design Considerations**

Visitability design incorporates the following in all construction or alterations, in addition to the applicable requirements of Section 504 and the Fair Housing Act, whenever practical and possible for as many units as possible within a development:

- Provide a 32" clear opening in all bathroom and interior doorways
- Provide at least one accessible means of egress/ingress for each unit.

## Benefits

Visitability also expands the availability of housing options for individuals who may not require full accessibility. It will assist project owners in making reasonable accommodations and reduce, in some cases, the need for structural modifications or transfers when individuals become disabled in place. Visitability will also improve the marketability of units.

## HUD Technical Assistance Concerning these Requirements

Further information concerning compliance with any of these requirements may be obtained through the HUD web page (<http://www.hud.gov/fhe/504/sect504.html>). Additional assistance and information may be obtained by contacting the local Department of Housing and Urban Development Offices of Community Planning and Development (CPD) and Fair Housing and Equal Opportunity (FHEO) listed below:

	<b>CPD</b>	<b>FHEO</b>
<b>Boston, MA</b>	617 565-5345	617 565-5310
<b>Hartford, CT</b>	860 240-4800 x3059	860 240-4800
<b>New York, NY</b>	212 264-0771 x3422	212 264-1290
<b>Buffalo, NY</b>	716 551-5755 x5800	716 551-5755
<b>Newark, NJ</b>	973 622-7900 x3300	973 622-7900
<b>Philadelphia, PA</b>	215 656-0624 x3201	215 656-0661
<b>Pittsburgh, PA</b>	412 644-2999	412 355-3167
<b>Baltimore, MD</b>	410 962-2520 x3071	410 962-2520
<b>Richmond, VA</b>	804 278-4503 x3229	804 278-4504
<b>Washington, DC</b>	202 275-0994 x3163	202 275-0848
<b>Atlanta, GA</b>	404 331-5001 x2449	404 331-1798
<b>Birmingham, AL</b>	205 290-7630 x1027	205 290-7630
<b>South Florida</b>	305 5364431 x2223	305 536-4479
<b>Jacksonville, FL</b>	904 232-1777 x2136	904 232-1777
<b>San Juan, PR</b>	787 766-5400 x2005	787 766-5400
<b>Louisville, KY</b>	502 582-6163 x214	502 582-6163 x230
<b>Jackson, MS</b>	601 965-4700 x3140	601 965-4700 x2435
<b>Knoxville, TN</b>	865 545-4391 x121	865 545-4379
<b>Greensboro, NC</b>	336 547-4005	336 547-4050
<b>Columbia, SC</b>	803 765-5564	803 765-5936
<b>Chicago, IL</b>	312 353-1696 x2702	312 353-7776
<b>Minneapolis, MN</b>	612 370-3019 x2107	612 370-3185
<b>Detroit, MI</b>	313 226-7908 x8055	313 226-6280
<b>Milwaukee, WI</b>	414 297-3214 x8100	414 297-3214
<b>Columbus, OH</b>	614 469-5737 x8240	614 469-5737 x8170
<b>Indianapolis, IN</b>	317 226-6303 x6790	317 226-7654
<b>Little Rock, AK</b>	501 324-6375	501 324-6296
<b>Oklahoma City, OK</b>	405 553-7569	405 553-7426
<b>Kansas City, KS</b>	913 551-5485	913 551-5834

<b>Omaha, NE</b>	402 492-3181	402 492-3109
<b>St. Louis, MO</b>	314 539-6524	314 539-6327
<b>New Orleans, LA</b>	504 589-7212 x3047	504 589-7219
<b>Fort Worth, TX</b>	817 978-5934 x5951	817 978-5870
<b>San Antonio, TX</b>	210 475-6820 x2293	210 475-6885
<b>Albuquerque, NM</b>	505 346-7271 x7361	505 346-7327
<b>Denver, CO</b>	303 672-5414 x1326	303 672-5437
<b>San Francisco, CA</b>	415 436-6597	415 436-6569
<b>Los Angeles, CA</b>	213 894-8000 x3300	213 894-8000 x3400
<b>Honolulu, HI</b>	808 522-8180 x264	808 522-8180
<b>Phoenix, AZ</b>	602 379-4754	602 379-6699 x5261
<b>Seattle, WA</b>	206 220-5150 x3606	206 220-5170
<b>Portland, OR</b>	503 326-7018	503 326-3349
<b>Manchester, NH</b>	603 666-7640 x7633	
<b>Anchorage, AK</b>	907 271-3669	
<b>Houston, TX</b>	713 313-2274	