

Section 504 Policy and Grievance Procedure

On April 16, 2012 the Department of Housing and Urban Development (HUD) released \$400 million in Community Development Block Grant funds for the purpose of assisting recovery in the most impacted and distressed areas declared a major disaster in 2011 under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The Appropriations Act requires funds to be used only for specific disaster-related purposes. The City of Minot received \$67,575,964 to address their most impacted unmet needs to recover from this disaster. On July 12, 2012 the Minot City Council approved the Action Plan that outlined the eligible activities for which these dollars would be allocated.

It is the City of Minot's intent to comply with all federal HUD requirements. This policy focuses on Section 504, and on HUD's regulations implementing Section 504 in federally assisted programs services and activities. These regulations are codified at 24 CFR Part 8.

Section 504 states:

"No otherwise qualified individual with handicaps in the United States shall, solely by reason of her or his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development"

HUD's regulations at 24 CFR Part 8 apply to all applicants for, and recipients of, HUD financial assistance in the operation of programs or activities receiving such assistance.

Individual with Disabilities Defined

HUD's Section 504 regulations define an individual with a handicap as any person who has a physical or mental disability that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment [24 CFR 8.3]. Major life activities include walking, talking, hearing, seeing, breathing, learning, working, performing manual tasks, and caring for oneself. The law also applies to individuals who have a history of such impairments as well as those who are perceived as having such impairment.

A person who meets the above definition, and who is otherwise qualified for the program, service or activity, is covered under Section 504. To be otherwise qualified means the individual meets the essential eligibility requirements, including, for example, requirements for tenancy, if the program is a housing program.

Recipient Defined

The regulations defines "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. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or sub-recipient merely by virtue of receipt of such payments [24 CFR 8.3].

Section 504 Coverage

Section 504 covers all programs, services and activities of recipients of HUD financial assistance, including, for example:

- Outreach and public contact, including contact with program applicants and participants
- Eligibility criteria
- Application process
- Admission to the program
- Tenancy, including eviction
- Service delivery
- Employment policies and practices

Section 504 Prohibitions Against Discrimination

Guarantee	Prohibition
Opportunity to participate	Denying a qualified individual with disabilities the opportunity to participate in, or benefit from, the housing, aid, benefit, or service.
Equality of benefits	Failing to afford a qualified individual with disabilities the opportunity for equal participation and benefit.
Equality of opportunity	Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as that afforded others.
No unnecessary difference or separateness	Providing different or separate housing, aid, benefits or services on the basis of disability unless providing such is necessary to



	provide housing or benefits that are as effective as that provide to persons without disabilities.
No assistance to entities that discriminate	Providing significant assistance to an agency, organization or person that discriminates on the basis of disability in any aspect of a federally assisted activity.
Opportunity to serve on boards	Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards.
No denial of right to a dwelling	Denying a dwelling to an otherwise qualified buyer or renter because of a disability of that buyer or renter or another prospective tenant.
No discriminatory limitation of benefits	Limiting in any other manner a qualified individual with disabilities in the enjoyment of any right, privilege, advantage, or opportunity afforded to others.
Most integrated setting	Providing programs or services to qualified individuals with disabilities in settings that are unnecessarily separate, segregated or restricted.

Housing

Section 504 also includes accessibility requirements for new construction and substantial rehabilitation of multi-family rental housing. Section 504 provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation in (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funding assistance. Section 504 also contains design and construction accessibility provisions for certain new multi-family dwellings developed for first occupancy on or after March 13, 1991.

For the purposes of compliance with Section 504, "accessible" means ensuring that program and activities, when viewed in their entirety, are accessible to and usable by individuals with disabilities. For housing purposes, accessible means that the unit is located on an accessible route and when designed constructed, altered or adapted can be approached, entered, and used by individuals with physical handicaps. A unit that is on an accessible route and adaptable inside.

The following requirements apply to both Federally assisted newly constructed multifamily rental housing (including public housing and Indian housing projects) containing five or more units and substantial rehabilitation of multi-family rental housing with 15 or more units. A rehabilitation project is considered substantial when the rehab costs will be 75 percent or more of the replacement cost of the completed facility;

- A minimum of five percent of total dwelling units (but not less than one unit) accessible for individuals with mobility impairments;
- An additional two percent of dwelling units (but not less than one) accessible for persons with hearing or vision impairments; and
- All units made adaptable that are on the ground level or can be reached by an elevator

Facilities

“Facility” is defined under Section 504 as all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property. “Accessible” for non-housing purposes means that a facility or portion of a facility can be approached, entered and used by individuals with physical handicaps.

Non-housing programs, as well as existing facilities in which they are situated, must be readily accessible to and usable by persons with disabilities. Accessibility programs will be determined once again under self-evaluation. The focus of program access is providing programs in the most integrated setting possible. Providing separate or different programs is illegal unless necessary to achieve equal opportunity.

City of Minot’s Responsibilities Under Section 504:

In order for the City of Minot to comply with Section 504, they will:

- Take steps to ensure effective communication with applicants, beneficiaries, and members of the public. [24 CFR 8.6]
- Take steps to ensure that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions, rates of pay, leave away from the job, fringe benefits, selection and financial support for training, employer sponsored activities, and dismissals, do not discriminate on the basis of disability. [24 CFR 8.10 - 8.13]
- Ensure that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards. [24 CFR 8.21]
- Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. [24 CFR 8.24]

- Provide reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity. A reasonable accommodation is an 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 accommodations may include, but are not limited to, adjustments or modifications to buildings, facilities, dwellings, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Pay for a reasonable accommodation needed by the individual (e.g., a ramp to a unit) unless providing that accommodation would be an undue financial and administrative burden or a fundamental alteration of the program. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Ensure that all new construction of housing facilities is readily accessible to and usable by persons with disabilities, and meets the requirements of applicable accessibility standards. [24 CFR 8.22 and 8.32]
- Ensure that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)]
- Conduct any required needs assessments (for recipients who are public housing agencies) to determine the extent to which the housing needs of persons with disabilities are being met in the recipient's program and in the community. [24 CFR 8.25]
- Distribute accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided to others. [24 CFR 8.26]
- Adopt suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units. [24 CFR 8.27]
- Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations and take appropriate corrective steps to remedy the discrimination revealed by self-evaluation.. [24 CFR 8.51]
- Recipients with 15 or more employees designate an employee to ensure the recipient's programs, services and activities meet the requirements of Section 504; adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. [24 CFR 8.53]
- Recipients with 15 or more employees notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. [24 CFR 8.54]

- Maintain records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if a complaint is filed, or if HUD conducts a compliance review. [24 CFR 8.55]

Responsibilities of Persons with Disabilities

Persons with disabilities can help assure compliance with Section 504 in a variety of ways:

- It is the responsibility of the person with a disability to request a reasonable accommodation if such accommodation may be necessary to allow him or her to participate in the recipient's program, service or activity. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Persons with disabilities, just like any other persons, are expected to comply with any applicable requirements of programs, including, for example in the case of housing programs, the requirement to meet obligations of tenancy.
- Persons with disabilities who believe they have been subjected to discrimination prohibited by Section 504 should file a complaint with the Department. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by Section 504 and who is a member of that class or who is the authorized representative of a member of that class may file a complaint with the Department. [24 CFR 8.56(c)] Complaints may be filed by mail with the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC 20410, or any Regional or Field Office of the Department.

Section 504 Grievance Procedure

The following grievance procedure is established to meet the requirements of Section 504 of the Rehabilitation Act as amended and the Americans with Disabilities Act of 1990 (ADA).

According to these laws, the City of Minot certifies that all citizens shall have the right to submit a grievance on the basis of disability in policies or practices regarding employment, services, activities, facilities, or benefits provided by the City of Minot.

When filing a grievance, citizens must provide detailed information to allow an investigation, including the date, location and description of the problem. The grievance must be in writing and must include the name, address, and telephone number of the complainant. *Upon request, alternative means of filing complaints, such as personal interviews or a tape recording, will be made available for individuals with disabilities upon request.* The complaint should be submitted by the complainant or his/her designee as soon as possible, but no later than 90 days after the alleged violation. Complaints must be signed and sent to:

Name/Title of Coordinator: Ms. Lisa Jundt, Human Resources Director

Address: PO Box 5006, Minot North Dakota 58702-5006

Telephone Number: 701-857-4753(Voice) 1-888-269-7477 (TTY)

Within 15 calendar days after receiving the complaint, the Human Resources Director will meet with the complainant to discuss the complaint and possible resolution. Within 15 calendar days after the meeting the Human Resources Director will respond in writing. Where appropriate, the response shall be in a format accessible to the complainant (such as large print or audio tape). The response will explain the position of the City of Minot and offer options for resolving the complaint.

If the response by the Human Resources Director does not satisfactorily resolve the issue, the complainant or his/her designee may appeal the decision of the 504/ADA coordinator. Appeals must be made within 15 calendar days after receipt of the response. Appeals must be directed to the chief elected official or his or her designee.

Within 15 calendar days after receiving the appeal, the chief elected official or his or her designee will meet with the complainant to discuss the complaint and to discuss possible resolutions. Within 15 calendar days after the meeting, the chief elected official or his or her designee will provide a response in writing. Where appropriate, the response shall be in a format accessible to the complainant. The response shall be accompanied by a final resolution of the complaint. The 504/ADA Coordinator shall maintain the files and records of the City of Minot pertaining to the complaints filed for a period of three years after the grant is closed out.

Other Complaint Procedures

All individuals have a right to a prompt and equitable resolution. Individuals or classes of individuals who believe they have been subjected to discrimination based on disability have several ways to file a grievance:

Under Title II, filing a grievance with the entity's ADA coordinator, filing a complaint with a federal agency, or filing a lawsuit may be done independently of others. **Individuals are not required to file either a grievance or complaint to bring a lawsuit. Lawsuits may be filed at any time.** The following are three of the eight agencies where a Title H complaint can be filed:

United States Department of Justice (DOJ)
Coordination and Review Section
Civil Rights Division
P.O. Box 66118
Washington, D.C. 20035-6118

Assistant Secretary for Fair Housing and Equal
Opportunity Department of Housing and Urban
Development (HUD) 451 7th Street SW, Room 5100
Washington, D.C. 20202

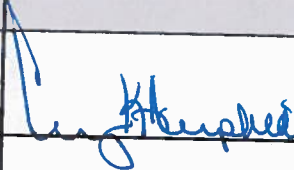
Office for Civil Rights
Department of Education
330 C Street SW, Suite
5000 Washington, D.C.
20201



Approval and Revision Tracking

Policy and Procedure Name	Minot 504 Policy and Grievance Procedure	Original Approval Date	3/18/2013
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Complete the below for each revision:

No.	Brief Description of Revision	Date sent for Approval	Signature of Person Approving	Date/Approval
1	Added Equal Opportunity Logo's	7/22/2013		7/22/2013