

Alana/Molly > fye

DISABILITY RIGHTS ACTION COALITION IN HOUSING (DRACH)
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November 13, 1996

Dear President Clinton:

On behalf of DRACH, a national grassroots coalition of people with disabilities and their advocates, I would like to take this opportunity to express our extreme appreciation and respect for Henry Cisneros, Secretary of Housing and Urban Development. DRACH has had ongoing communication with Secretary Cisneros and his staff at headquarters over the past year. We feel we have made much needed progress in addressing the oppressive housing policies and programs for Americans with disabilities.

We are very saddened however, to hear that he may be departing HUD in the near future. Secretary Cisneros has taken unprecedented actions to further the fair housing and civil rights of people with disabilities, including: initiating changes within HUD to stop segregation on the basis of disability or diagnosis, promote homeownership opportunities, work towards increased accessible, affordable housing, and is working to open new doors to housing choice for our community. He also worked with DRACH in forming the new, much needed, Office on Disability Policy, to better serve HUD's customers with disabilities.

DRACH is therefore appealing to you and the White House to ensure that any replacement for Henry Cisneros 1) continue the progressive work in disability policy begun by Mr. Cisneros, 2) continue to be responsive to HUD's customers with disabilities by continuing open dialogues and working relationships 3) retain the Office on Disability Policy in the Office of the Secretary, which is a crucial element in moving HUD housing policy in a direction which reflects the civil and human rights of Americans with disabilities.

DRACH would very much like to continue our working relationship with HUD and its new Secretary. We ask for your assistance in our efforts to give all Americans with disabilities true choice in housing.

Sincerely,



Karen Tamley, for DRACH

10/17 Mtg w/ three Spines 401-7991

How many funds?

DRAC - Disab Rts Action Comm - X board (?)

3 issues:

- non seg
- de-link services w/ housing ^{or interpretable} (Bill requires services)
- increased options in community

HIV/AIDS → quality support seg'd, service-linked

HIV has responsibility

Fair Hsg Act - no seg based on... + disab
Sec. 504
Title II of ADA

Suit changes that HUD not enforcing FH + 504

Housing v Treatment facilities

- need to amend ^{HSG} laws (e.g. HOPEA) to include treatment facilities

*NO carveouts on basis of diag - unless convinced using ^{Sec. 504}

Return HOPEA

Turn rest of HSG into need-based rather than diag-based

Mtg w/ Sec'y in 3 wks → drafting ltr to Congress

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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
OF THE
COMMITTEE ON BANKING AND FINANCIAL SERVICES

ONE HUNDRED FOURTH CONGRESS

B-303 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

September 11, 1996

The Honorable Henry G. Cisneros
Secretary, U.S. Department of Housing
and Urban Development
451 Seventh Street, SW
Washington, D.C. 20410

Dear Secretary Cisneros:

We are troubled by the recent HUD Notice PIH 96-60, "New Requirements for Designation of PH Projects", which implements Section 10 of the Housing Opportunity Program Extension Act of 1996, Public Law 104-120. The Notice is inconsistent with the intent of Congress.

Congress has long been concerned with the problems associated with low-income seniors being forced to live in public housing buildings with young mentally-disabled persons. These senior citizens are forced to live in constant fear and discomfort. They, together with the housing authorities, have protested this unwholesome arrangement for years - an arrangement that no other senior households, rich or poor, have to endure.

Congress acted in an overwhelmingly bipartisan manner in passing the Housing Opportunity Program Extension Act, making it clear that condemning low-income seniors to live in fear is unacceptable. Forcing two distinct and vulnerable populations to live side-by-side, as had been the case in the past, created a disturbing and disruptive living environment for seniors.

Section 10 of P.L. 104-120 is intended to relieve public housing authorities from the burdensome and overly-restrictive process of designating housing for occupation by senior families, to allow this population to live in an atmosphere of peace and security. Unfortunately, Notice PIH 96-60 appears to frustrate attempts to relieve seniors from this vexatious situation. Instead of implementing Section 10 in the spirit Congress intended, Notice PIH 96-60 makes it more difficult to designate housing as seniors-only.

Section 10 is intended to increase the discretion of local housing authorities in making designations, reduce excessive bureaucratic requirements, and confine HUD to a limited review of the housing authority's action. This 16-page Notice instead continues federal micromanagement with duplicative, bureaucratic burdens.

JOSEPH P. KENNEDY, MASSACHUSETTS
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*How is HUD planning to respond?
Is Notice too burdensome?
Are there ways to work w/
PIHs to simplify, yet
maintain commitment to
disabled?*

Congress first addressed this "mixed population" problem in the Housing and Community Development Act of 1992, creating a new Section 7 in the Housing Act of 1937 to enable PHAs to designate buildings for seniors-only occupancy. That amendment fully protected the rights of the disabled residing in such buildings and broadened choices for the disabled on housing waiting lists. Unfortunately, HUD responded by delaying issuance of regulations and precluding approval unless housing authorities could guarantee non-elderly disabled persons the same level of access to housing as existed before designation.

Congress, thus frustrated in its effort to relieve seniors from their distressful situation, proceeded to further amend Section 7 of the Housing Act of 1937 in Section 10 of the Housing Opportunity Program Extension Act of 1996. The amendment eliminated the need for an allocation plan and other burdensome requirements, in order to simplify and facilitate the designation of buildings for occupancy by seniors only. The response has been sixteen pages of regulations in the Notice, which appears to favor the non-elderly disabled at the expense of seniors.

Congress has not been unmindful of the needs of the non-elderly disabled. It has earmarked incremental tenant-based assistance out of limited Section 8 appropriations to enable them to choose independent living, thus providing a resource not available to other households waiting for assistance. In addition, members of this disabled population benefit from funds for the homeless under the McKinney Act and for the disabled under the Section 811 program.

The new requirements in Notice PIH 96-60 seem to ignore the statute's goal of resolving the problems caused by mixing two unharmonious groups in the same building, in which seniors are often victimized. It is not a question of serving or not serving persons with disabilities. Indeed, almost one in three seniors in public housing themselves have mental disabilities. The aim is to avoid aggravating the current burdens on seniors by adding disabled persons who are of another generation and who are often recent patients of mental institutions and ex-participants in drug and alcohol rehabilitation programs.

The Notice's basic test to designate a building for occupancy by seniors requires that the PHA demonstrate an increasing demand for housing by seniors and a decreasing demand for housing by the non-elderly disabled, regardless of the conditions seniors are enduring in the mixed population building. There is no basis in Section 10 for such a criterion. Indeed, the Housing Opportunity Program Extension Act's amendment of Section 7 was aimed at removing that very test. Section 10 is intended to rectify the problem of mixed populations. Instead the issue is treated as a statistical contest between seniors and the non-elderly disabled.

The Act nowhere warrants the Notice's requirement for a description of "the housing needs of the low-income population of the jurisdiction over the next five years"; the Act is aimed at curing an existing problem of mixed populations, not planning for a largely unknowable housing future.

Section 10 ended reference to waiting lists in determining seniors-only designations, contrary to Section 2 of the Notice, in part in recognition that the undesirability and dangers in the present mixed-population buildings has deterred seniors from applying. Similarly, the Notice's inquiry as to the numbers of one group or the other who were admitted in the last year has little relevance to any issue involving designations. The levels of applications in a year's time are the function of many factors other than level of need.

Similarly, Section 10 did not intend that a PHA must inventory all seniors and disabled persons in its jurisdiction that may be interested in public housing before it can designate a building for seniors-only occupancy. Some of the data sought in Section 3, page 4, is virtually impossible to obtain and, at best, extremely costly (e.g. "The numbers [of low-income seniors and disabled] who need affordable, decent, safe, and sanitary housing."). Such citywide demographic inventories may be the function of the city planning offices, rather than the responsibility of PHAs.

The Notice's continued reference to an "Allocation Plan" reveals its approach to this matter as seniors vs. non-elderly disabled, rather than recognizing that Section 10 repealed the concept and the requirement of an allocation plan.

Notice PIH 96-60 opens its path around the amendment's constraint of "limited review" by HUD by stating that "a serious lack of information" means that the plan is "incomplete in significant matters" under Section 7(e)(3), justifying unlimited review; the Notice proceeds to require volumes of information thus facilitating a finding of "a serious lack of information."

The Notice reaches far beyond Section 10, or any other statute, in precluding the use of Section 8 vouchers for relocation, on the grounds that such "may result in the tenant paying far more than 30 percent of his or her income for rent." First off, designation does not involve relocation because the PHA may not seek to evict a non-elderly disabled tenant. Moreover, Section 10 expressly allows "tenant-based rental assistance under Section 8" without qualification for voluntary relocations.

The Notice's frequent invocation of and reference to local advocacy groups suggests strongly that HUD does not wish the decision to lie primarily with the PHA, as Section 10 intends. Certainly, local input is necessary, however, responsible public housing should not be run according to cheering squads for one group or another. Moreover, the pending authorization bills, H.R. 2406 and S. 1260, provide for PHAs to submit plans for public approvals. It is in such plans that PHAs should express their proposed designations and the public should comment.

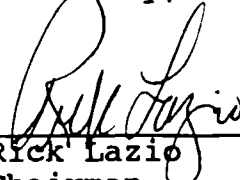
This Notice seems to only create a series of hurdles to make it near-impossible to make seniors-only designations except in the most limited circumstances. The complex and excessive rules seem to be set up to challenge any effort to have seniors-only buildings. The Notice constitutes an affront to low-income seniors -- and to the long-standing Congressional effort to bring relief to a disturbing situation.

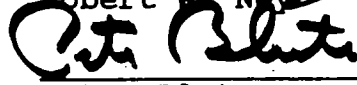
As both House and Senate authorizing committees near completion of the public housing conference report, language will be included in the legislation that amends Section 10 of P.L. 104-120 and makes explicit our intended policy concerning seniors-only designated housing.

We ask that you suspend implementation of the Notice until the above concerns are addressed.

We appreciate your personal attention to this matter.

Sincerely,


Rick Lazio
Chairman


Robert W. Ney

Peter Blute



U.S. Department of Housing and Urban Development
PUBLIC AND INDIAN HOUSING

Special Attention of:

Secretary's Representatives;
State/Area Coordinators; Directors,
Public Housing Divisions; Housing
Authorities; Resident Management
Corporations; Resident Councils
Fair Housing Enforcement Center
Directors; FHEO Program Operations
and Compliance Center Directors

Notice

PIH 96-60 (HA)

Issued: August 5, 1996

Expires: August 31, 1997

Cross References:

Subject: New Requirements for Designation of Public Housing
Projects

PURPOSE: This Notice explains the new requirements for public housing agencies (PHAs) that plan to designate projects for elderly families only, disabled families only, or elderly and disabled families. Section 10(a) of the "Housing Opportunity Program Extension Act of 1996," signed by President Clinton on March 28, 1996, amended Section 7 of the United States Housing Act of 1937, which permits PHAs to designate projects after developing a HUD-approved Allocation Plan.

The Notice also explains the impact on Plans that were approved or disapproved under the previous requirements. In addition, it describes the revised Allocation Plan requirements for PHAs that plan to designate.

EFFECTIVE DATE: The provisions of Section 10 of the "Housing Opportunity Program Extension Act of 1996" went into effect when they were signed by the President on March 28, 1996. These provisions and the information in this Notice apply until the Department issues regulations revising 24 CFR Part 945, "Designated Housing - Public Housing Designated for Occupancy by Disabled, Elderly, or Disabled and Elderly Families."

NON-DISCRIMINATION REQUIREMENTS: Nothing in this Notice relieves a PHA from complying with the non-discrimination provisions of federal civil rights laws, including but not limited to Section 504 of the Rehabilitation Act and its implementing regulation at 24 CFR Part 8, the Fair Housing Act and its implementing regulation at 24 CFR Part 100, and Titles II and III of the Americans With Disabilities Act and their implementing regulations at 28 CFR Parts 35 and 36.

PHO : Distribution : W-3-1, R-3-1(PIH), R-6, R-7, R-9, 138-2, 138-7, RMC-2
&
(FHEO)

APPLICABILITY: This Notice and the requirements it describes apply only to projects (or portions of projects) operated by PHAs under the low-income public housing program. It does not apply to projects operated by Indian Housing Authorities.

NO ALLOCATION PLANS REQUIRED TO MAINTAIN MIXED POPULATION PROJECTS. PHAs that plan to leave all their projects as mixed population projects (projects that will not be designated for either elderly families or persons with disabilities exclusively) do not have to submit an Allocation Plan.

WHAT A PHA PLANNING TO DESIGNATE A PROJECT MUST DO: A PHA must develop an Allocation Plan that meets the requirements in the statute and in this Notice. The PHA's Board of Commissioners must pass a resolution adopting the Allocation Plan, pending HUD's notification of its approval.

HUD has not delegated authority for approval of Allocation Plans. Therefore, the PHA must send the Plan and the Board resolution to HUD in Washington, D.C., for review and approval or disapproval. The address is HUD, Office of Public and Assisted Housing Operations, Room 4206, 451 Seventh Street, S.W., Washington, D.C., 20410. The PHA also should send a copy of both documents to the PHA's local Field Office to the attention of the Public Housing Division and the Fair Housing Division.

REQUIREMENTS FOR DESIGNATION OF PROJECTS: Section 10 of the 1996 Act simplifies and modifies the requirements in Section 7 for PHAs planning to designate. In addition, it introduces requirements that were not present in the old law.

The major provisions of the revised Section 7 are described below. The requirements are the same whether a PHA designates a project for elderly families or for persons with disabilities. Guidance is given where clarification is necessary to explain the requirements to PHAs wishing to designate projects.

The Allocation Plan and project designations are in effect for five years from notification of HUD's approval.

1. Contents of Allocation Plan.

- a. **Statutory Provisions.** Section 7(d) requires a PHA to submit an Allocation Plan to HUD that:

"(1) establishes that the designation of the project is necessary --

"(A) to achieve the housing goals for the jurisdiction under the Comprehensive Housing

Affordability Strategy [CHAS] under Section 105 of the Cranston-Gonzales National Affordable Housing Act; and,

"(B) to meet the housing needs of the low-income population of the jurisdiction;"

Guidance for Section 7(d)(1).

- (1) The Allocation Plan must describe the housing goals of the jurisdiction over the next five years, as expressed in the CHAS. It also must show that designation is necessary to meet these goals.
 - (a) The CHAS is part of the jurisdiction's Consolidated Plan. There are two parts of this Plan to which the PHA should refer as it determines if the designation is necessary. One is the Strategic Plan, which includes both the goals and priorities for obtaining affordable housing and any obstacles to addressing under-served needs. The other is the annual Action Plan, which identifies resources that are expected to be available to meet priority needs.
 - (b) Communities with populations smaller than 50,000 are not required to develop Consolidated Plans. Thus, the PHAs in these communities will not have a local CHAS whose goals could be met through project designation. However, all states have state-wide Consolidated Plans. These state plans will contain a housing market analysis that describes the general characteristics of the state's housing markets, including information about the cost, supply, demand for, and condition of housing. In addition, the state plan may discuss regional housing goals or contain other information relevant to a decision to designate.
 - (c) There will be situations where neither the local nor state CHAS nor the Consolidated Plan will provide the information the PHA needs to demonstrate that designation is necessary to accomplish the housing goals. In these cases, the PHA will have to rely on its demonstration that the designation is

necessary to meet the housing needs of the low income population of the jurisdiction. See discussion in paragraph (2) below.

- (2) The PHA must describe the housing needs of the low-income population of the jurisdiction over the next five years. It must show that the designation is required to meet these needs.

A PHA may need to rely on a range of sources to assess and describe the housing needs of its low-income population. Census data, is one but not the only, important resource. Data from a PHA's waiting lists (both public housing and Section 8), as well as statistics on recent public housing admissions and certificate and voucher use, may provide valuable information on the need of elderly families and persons with disabilities. This may be augmented by data provided by local advocacy groups and public and private service agencies familiar with the needs of these groups. The PHA also may have access to other useful sources such as local housing surveys.

- (3) HUD must be able to evaluate whether the PHA has shown that the designation is necessary to meet the goals in the jurisdiction's CHAS, as well as the housing needs of the low-income population. Therefore, the Allocation Plan should include the following information about low-income elderly families and persons with disabilities in the Authority's jurisdiction:

- (a) The numbers of these families.
- (b) The numbers who need affordable, decent, safe, and sanitary housing.
- (c) The numbers of each of these groups who live in the designated project(s).
- (d) The numbers being housed in other PHA projects or provided with housing assistance by the PHA or through other means.
- (e) The numbers who have been on the PHA's waiting list for low-income public housing for the past three years.
- (f) The numbers who were admitted to the designated project in the past three years.

- b. Statutory Provisions. Section 7(d) requires an Allocation Plan that:

"(2) includes a description of --

"(A) the project (or portion of a project) to be designated;

"(B) the types of tenants for which the project is to be designated;

"(C) any supportive services to be provided to tenants of the designated project (or portion);

"(D) how design and related facilities (as such term is defined in Section 202 (d) (8) of the Housing Act of 1959) of the project accommodate the special environmental needs of the intended occupants;"

Guidance for Section 7(d)(2)(C) and (D).

- (1) Supportive services are defined in Section 7(d)(2) as those services designed to meet the residents' special needs.

Elderly families and persons with disabilities living in mixed population projects may have certain supportive services available to them that the PHA provides directly or for which the PHA has arranged. Such services may include Meals-On-Wheels, transportation (to shopping, medical appointments, cultural events, etc.), public health services, rent pick-up, check-cashing, etc.

The Allocation Plan should describe the supportive services that are provided in the projects the PHA is designating.

- (2) The Plan must describe how the project's design and its "related facilities" are adapted to the special environmental needs of the tenants for whom the project is designated. Section 202(d)(8) of the Housing Act of 1959 defines "related facilities" as buildings or rooms, such as dining rooms or cafeterias, community rooms, workshops, day or outpatient health facilities or other essential service facilities that are suitable for elderly families or persons with disabilities.
- (3) The PHA needs to determine if there are members of the non-designated group who need and want housing that has services or amenities but will not be able to use alternative housing resources because the services or amenities are not available. The

PHA will still need to make sure that it can serve the housing needs of that individual.

- c. Statutory Provisions. Section 7(d) requires an Allocation Plan that:

"(2) includes a description of ...

"(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section."

Guidance for Section 7(d)(2)(E). The Allocation Plan should describe the housing resources that will be available to families in the non-designated group.

- (1) In some instances, a PHA's action to designate a project for either elderly families or persons with disabilities will conform with the CHAS. This will occur when the CHAS shows an increasing demand by the group for whom the designation is being made and a decreasing demand by the group for whom the availability of the PHA's housing is being reduced.

In these cases, the PHA can establish in its Allocation Plan that the designation is necessary to meet the CHAS. Since the designation does conform, the Plan will not have to identify additional housing resources to compensate for those to which the non-designated group will no longer have access.

- (2) There will be other cases where designation appears to conflict with the goals of the CHAS or the housing needs of the low-income population of the jurisdiction.

When this occurs, the Allocation Plan should show that the PHA can reallocate its own resources or identify other resources to eliminate that conflict.

- (3) As it develops the Plan, the PHA should consider:

- (a) The housing needs of the non-designated group when the CHAS and/or a housing-needs assessment identifies them as needing more housing, not less. The PHA's projection

should be for the five-year term of the Allocation Plan.

- (b) The kinds and numbers of housing resources that the PHA identifies as being available to meet these needs, including a break-down by dwelling size.
 - i. Available housing resources are not limited to housing "owned or controlled" by the PHA. They may be PHA-operated housing resources or those operated by public or private profit or non-profit organizations.
 - ii. The PHA can create an additional housing resource by adopting a Section 8 local preference for the non-designated group or setting aside a portion of its Certificates/Vouchers for them. The PHA also may be able to obtain additional Certificates/Vouchers for the non-designated group.
- (c) If the housing resources upon which the PHA intends to rely actually are available to and affordable by the non-designated group.

Housing that has a long waiting list, lacks sufficient turnover or current vacancies, is too costly, or contains units of the wrong size should not be viewed as being "available" housing. For instance, three- or four-bedroom units are not a resource for persons who need one-bedrooms.
- (d) If service-linked housing should be included as a resource. A number of the assisted non-public housing resources for persons with disabilities require that residents accept services as a condition of receiving housing. Such service-linked housing cannot be considered a viable housing resource for those persons with disabilities who do not want and need the services. It is only "available" housing for the limited number who want and need service-linked housing.
- (e) The accessibility needs of non-elderly persons with disabilities.

When the non-designated group includes persons who need accessible housing, the Allocation Plan should show how the proposed resources will meet their accessibility needs. Whether housing resources are or will be accessible should be a major factor in the PHA's determination of their availability for those who need those features.

Generally, under Section 504 of the Rehabilitation Act of 1973 and its implementing regulations, the PHA must pay for modifications of public housing units that are needed to accommodate the disabilities of public housing tenants. Owners of private-market rental housing do not have the same financial obligations to modify dwellings.

A PHA's reliance on housing resources that it does not own may create a problem for persons with disabilities who need dwellings modified. In anticipation of this, the Plan should address how the PHA will ensure that private-market rental housing is or will be made accessible, when required by the tenant. The tenant should not have to assume the financial responsibilities for installing (and later removing) the accessibility features.

If the PHA cannot arrange a mechanism for ensuring that needed accessibility modifications will be made, it should consider such options as developing other housing resources or excluding all its accessible dwellings from designation.

- (f) As the PHA analyzes the adequacy of the housing resources for the non-designated group, a useful bench-mark is the average time elderly families and non-elderly persons with disabilities have to wait for housing assistance. Current numbers can be compared with the estimated average time these applicants will have to wait over the next five years.

As a rule of thumb, if the waiting time is approximately the same, the housing resources are adequate and the non-designated families will not be harmed by the designation. On

the other hand, if their waiting time is longer, it reasonably can be concluded that the non-designated families will be harmed. Where this is the case, the PHA should consider such options as:

- i. Identifying more housing resources for that group.
 - ii. Utilizing different combinations of housing resources.
 - iii. Reducing the number of dwellings being designated.
- (g) A jurisdiction that develops a Consolidated Plan must certify that it is promoting fair housing choice, including taking actions to overcome impediments to that choice. [24 CFR 91.225.] An Allocation Plan that created impediments to fair housing choice might conflict with a Consolidated Plan. To avoid this problem, the PHA may wish to provide a mix of housing types and subsidy options for people in the non-designated group.
- (h) The services and amenities available at the designated buildings may be necessary and desired by members of the non-designated group. If the services and amenities are not available in family housing projects or privately-managed housing, the Allocation Plan should describe how the PHA will meet the low-income housing needs of persons who need and want such services so they may participate in housing.

2. Guidance on Consultation and Public Participation. Section 7 no longer requires the PHA to consult with local officials and agencies and other interested parties in the development of the Plan, nor does it require the PHA to hold a public meeting and encourage public participation and comment on the draft. Therefore, the Department can no longer and will no longer disapprove a Plan for failure to engage in the consultative process.

Nevertheless, the Department believes that consultation and public participation still have an important role to play in the PHA's development of its Allocation Plan, much as public participation and comment is critical to the development of a community's Consolidated Plan.

Section 7 links HUD approval of an Allocation Plan to the PHA's demonstration that designation is necessary to meet the goals of the CHAS and the low-income housing needs of the community. Therefore, it will assist the PHA if it develops its Plan using information from all those in a position to advise how the designation will meet those criteria. Tenant groups, advocacy groups, local agencies, etc., can be a valuable resource for the PHA as it formulates a Plan that serves these housing needs in the best way possible. These groups often can provide information otherwise unavailable to the PHA concerning the need for housing for both elderly families and persons with disabilities, services available in the community for these populations, and other housing resources that are appropriate for either population.

3. Treatment of Current Tenants Because of Designation.

a. No Mandatory Evictions Due to Designation.

Statutory Provision. Section 7(b) states that:

"...any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate...because of the designation...."

b. Voluntary Relocation Because of the Designation.

Statutory Provision. Section 7(c) states that the PHA must provide the following to persons and families who agree to be relocated in connection with a designation:

"(1) [A] notice of the designation and an explanation of available relocation benefits.

"(2) Access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under Section 8, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated.

"(3) [P]ayment of actual, reasonable moving expenses."

Guidance for Section 7(c).

- (1) The PHA may decide that, as part of its Allocation Plan, it wants to offer tenants in the non-designated group the opportunity to transfer out of the designated project. If this is the case,

it must notify every such tenant in the designated project that he or she may relocate. The PHA should use the notice procedures that are in the PHA's lease with the tenant.

- (2) The notice must describe what the PHA's statutory obligations are to the people who are willing to relocate, including a description of available relocation benefits, the right to relocate to housing that is comparable in costs, services, and design factors, and payment of actual, reasonable moving expenses.

The notice must also state that relocation is **voluntary** and that **no one will be required to relocate.**

- (3) It is possible that, in some instances, using Section 8 Housing Vouchers may result in the tenant paying far more than 30 percent of his or her income for rent. To the extent that this occurs, providing tenants with Vouchers to relocate may not satisfy the requirement that the rental rate be comparable.

c. Effect of Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.

Statutory Provision. Section 7(g) states that:

"No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 because of the designation of any existing project...."

Guidance for Section 7(g). The Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 provides specified relocation benefits to persons who qualify as "displaced" from their homes or business because of the actions of either federal agencies or recipients of federal financial assistance. [See 46 U.S.C. 4601 et al.] Persons who are offered the opportunity to relocate because of a project designation do not qualify as "displaced" persons under this statute.

4. Applicant/Tenant Pool for Projects Designated for Elderly Families.

Statutory Requirements. Section (7)(a)(3) states that:

"If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated...for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

Guidance for Section 7(a)(3). If, after a project has been designated for elderly families, the PHA finds that it does not have and cannot recruit enough elderly families to fill the dwellings, the PHA may place near-elderly families in these dwellings.

A near-elderly family is family whose head, spouse or sole member is at least 50 years but less than 62 years old.

5. HUD Review and Standards for Determination of Non-Compliance.

Statutory Requirements. Section 7(e) calls for limited HUD review of allocation plans intended to ensure that each plan is complete and complies with the requirements of subsection (d). The Plan is considered approved if HUD does not notify the PHA, not later than 60 days after receipt, whether the Plan complies with such requirements. Where HUD notifies the PHA of noncompliance, the notice shall specify the reasons for the noncompliance and any modifications necessary for the Plan to meet the requirements.

Section 7(e)(3) further provides that the Secretary may determine that a Plan does not comply with the requirements of the statute only if (1) the Plan is incomplete in significant matters required under subsection (d) or (2) there is evidence available to HUD that challenges, in a substantial manner, any information provided in the Plan.

Guidance for Section 7(e)(3)(A). The first of the two statutory requirements for a determination of non-compliance is that the Plan be incomplete in significant matters. There are two different ways in which this may happen. The first occurs if the Plan lacks any of the statutorily-required elements (see items 1a, b, and c for more information about each element). Second, it also occurs if there is a serious lack of information in its presentation about any of the required elements.

For example, the Plan would not comply if it does not include a discussion of how the designation is necessary to achieve the CHAS housing goals and meet the housing needs of the jurisdiction's low-income population [Sec. 7(d)(1)(A) and (B)]. It also would not comply if, for example, the discussion of the necessity for the designation does not contain any information on the housing needs of either the jurisdiction's low-income elderly population or its population of low-income persons with disabilities.

Guidance for Section 7(e)(3)(B). The second of the two statutory bases for a determination of non-compliance is that there is "evidence available to the Secretary that challenges, in a substantial manner, any information provided in the Plan."

In performing the limited review permitted under section 7(e), HUD will consider any evidence that challenges, in a substantial manner, any information provided in the Plan. This review will comprise two standards. First, the identification of needs set out in the Plan must not be plainly inconsistent with generally available, significant facts and data pertaining to low-income housing needs for the elderly and the disabled. Second, the designations in the Plan must not be plainly inappropriate to meeting the needs identified in the Plan.

Evidence challenging in a substantial manner the identification of needs as "plainly inconsistent" under this standard would occur, if the PHA's presentation of or rationale for its designation decisions was not supported by the data supplied with the Plan or otherwise available to HUD.

For example, the designation must not conflict with either the CHAS's housing goals or the equivalent goal of meeting the housing needs of the jurisdiction's low-income population.

Similarly, Plan actions can be determined "plainly inappropriate" to meeting identified needs, on the basis of substantial evidence that is either internally inconsistent or externally made available.

On the former grounds, this applies to information within the Plan that conflicts with or contradicts other information in the Plan. For instance, a Plan says that the PHA will designate all its mixed population projects as projects for elderly families because this will assist the

jurisdiction in meeting the housing needs of the low-income population. However, in another part of the Plan, the PHA has included information that indicates that persons with disabilities have a greater need for affordable housing.

A determination of non-compliance because of "challenging" evidence also may result from information that comes from other sources. This could include information from documents like the Consolidated Plan or the CHAS. It also could include information from outside groups or individuals.

For example, a Plan may be "plainly inappropriate" in not providing for any housing resources for persons with disabilities when the PHA is designating projects for elderly families. The PHA may say it is not necessary since there are no persons with disabilities on its waiting list or no need in the community for housing for this group. A community group may produce evidence that refutes the PHA's statements by showing that there are many low-income persons with disabilities in the jurisdiction who need housing assistance. (To the extent that the Plan failed to include generally available needs information, it managed to have failed the "plainly inconsistent" standard.)

The Department invites interested members of the public to provide comments about the Plan. HUD encourages interested parties to write to HUD Headquarters if they have evidence that challenges or supports information in the Plan.

They may write to either of the following two offices:

Department of Housing and Urban Development
Office of Public and Indian Housing
Office of the Deputy Assistant for Public and
Assisted Housing Operations
Room 4204
451 Seventh Street, SW
Washington, D.C. 20410

and

Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
Office of Program Compliance and Disability Rights
Room 5240
451 Seventh Street, SW
Washington, D.C. 20410

6. Time-frames for and Contents of HUD Notification to PHA of Plan's Compliance/Non-Compliance with Statute.

Statutory Provisions. Section 7(e) requires that HUD:

"(1)... notify each public housing agency submitting a plan whether the plan complies...not later than 60 days after receiving the plan. If...[HUD]...does not notify the public housing agency..., the plan shall be considered...to comply...and...[HUD]...shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period."

"(2)...specify in the notice...the reasons for the noncompliance and any modification necessary for the plan to meet....[the]...requirements."

Guidance for Section 7(e)(1) and (2). HUD has 60 days to review the initial submission of the Allocation Plan and each resubmission.

HUD must notify the PHA in writing whether the Allocation Plan complies with the statute. When the Plan does not comply, the letter must provide both the reasons for the non-compliance as well as the modifications that will make the Plan approvable.

For example, a notification might indicate that an Allocation Plan did not comply because:

- o It was missing required information.
- o It did not establish that the designation was necessary to meet the goals of the CHAS.
- o It reduced the housing available to the non-designated group, in conflict with the goals of the CHAS, without describing the PHA's plans for securing alternate housing resources.

7. Extensions of Designation.

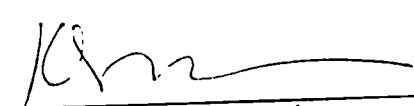
Statutory Requirements. Section 7(f) states that all designations are in effect for five years from the date of HUD's approval of the Plan. This applies to Plans approved before and after the 1996 revisions to Section 7. Two-year extensions beyond the five years are permitted when a PHA submits information needed to update the Plan.

1

AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION OF ALLOCATION PLANS: Section 10(b) of the "Housing Opportunity Program Extension Act of 1996" authorizes funds to be appropriated for Section 8 Housing Certificates and Housing Vouchers so PHAs may implement approved Allocation Plans. On July 19, 1996, a Federal Register notice announced FY 1996 funding for approximately 2,000 Certificates and Vouchers for PHAs designating projects.

STATUS OF APPROVED ALLOCATION PLANS, DISAPPROVED PLANS, AND PLANS BEING REVIEWED:

1. Allocation Plans that were submitted and approved before March 28, 1996, are in effect, as they were approved. They do not have to be revised to meet the new requirements. However, they are now in effect for five years from the date of approval, not two years.
2. Allocation Plans that were disapproved before March 28, 1996, still are disapproved. If the PHA wants to submit a revised Plan, it must meet the new requirements.



Kevin Emanuel Marchman, Acting Assistant
Secretary for Public and Indian
Housing

budget
Bayer

10/10 Hsg / Pw Disabilities

① Sec. 811 / 25% t-based → don't tie to allocation plan
+ new Sec. 8 ass

② Extend Bill g'lives on Allocation plans
- there have been criticism

→ keep Fair Hsg folks out

③ Then → Designation not in on her agenda

Survey → ppl w/ disab

RR - 75% ↓ to hsg

opening of new prog's → HOME, CDBG
& in CHAS / consol'd plan

CPD → guidance

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

10-Oct-1996 11:46am

TO: Diana M. Fortuna

FROM: Molly Brostrom
 Domestic Policy Council

SUBJECT: fyi for 2:00 mtg

	FY 95	FY 96	FY 97
Sec. 811	387M	258M	194M*

*up to 25% of 811 can be used for tenant-based certificates

FY 97 Sec. 8 funding includes a \$50M earmark for nonelderly disabled affected by plans to designate buildings solely for elderly

11/9

Housing & Disabilities

Why of Cismos

Demands

1 - Office of Disab's

Cismos → where located?

D - in Sec'y's office HC → money might be prob

HC → CPD

→ agreed to mtgs on Saturdays (1/13) 10am

→ requested ^(forums) ~~trips~~ round country to hear

(ADAPT demand) needs of pwrds - HUD sponsored

AIDS office: prob is segregated hsg; money goes to paying providers too much into admin; consumers + providers don't always want same thing

2 - Pt made that HUD not complying w/ Fair Hsg Act

HC in disbelief

- service providers lobby for link between hsg & services

- ~~link~~ traps pple into hsg

- Bill NRC says you can't require pple to use services

3 - HUD not req' of compliance w/ Fair Hsg laws

- easy to put access in ^{new} constr, more exp. later

⇒ - FEMA bldg inacc'ble hsg

- basic access

⇒ visitability

- change mindset to thinking abt others, future

law doesn't cover FEMA

Chron Accessible
Library

504 → 5% acc'ble

?

- ^{2 story, attached} townhomes not under fair Hsg laws (cheaper)
- ^{loop hole} garden apts → 50% are then acc'ble

⇒ Cisneros identified Eisenbath as liaison -
said to continue wkg w/ them

4 - "developers getting away w/ murder"

- HUD will do 10 city check on application of laws

5 -

6 - Conference

"NAPAS?"

- ^{Sept-Oct} past → all HUD speakers; lawyers; few publ's

Cisneros → supervisor of concept, issue \$\$\$ -

· suggested early groups

⇒ sig't steps by end of 95

Other agencies:

FEENA

FmHA

HTAS?

National Action Coalition

for Disability Rights in Housing

TO: Secretary Cisneros

FROM: The National Action Coalition for Disability Rights in Housing

DATE: November 8, 1995

- 1) Establish an Office on Disability within the Office of the Secretary. The Office on Disability would be a true link to HUD's customers with disabilities. Require consumer participation in the development of all relevant legislation and review of all current programs.
- 2) Amend all housing program guidelines, RFP's and NOFA's to be consistent with Fair Housing laws, and to prohibit segregation on the basis of and type of disability.
- 3) Require that all new construction and rehabilitation with public funds be architecturally accessible to persons with disabilities. Prohibit construction of buildings, particularly townhomes, that are not in compliance with access laws.
- 4) Impose significant penalties such as withholding funds on entities who are in significant non-compliance of the Fair Housing Act, Section 504 and other civil rights laws.
- 5) Require each community to develop an access modification fund to be available to low income tenants or homeowners with disabilities.
- 6) HUD fund a national disability housing conference where the agenda would be established, and presenters be coordinated by NACDRC and other disability rights groups.

WE ASK THAT HUD MEET THESE DEMANDS BY THE END OF 1995

CORRESPONDENCE CAN BE DIRECTED TO BECCA VAUGHN AT (913) 233-4572

RATIONALE FOR INCREASING THE CURRENT LEVEL OF ARCHITECTURAL ACCESS IN FEDERALLY-ASSISTED MULTI-FAMILY RENOVATIONS--I.E., MAINTAINING THE PRESENT % OF FULLY ACCESSIBLE UNITS AND ADDING BASIC ACCESS TO THE OTHER UNITS WHENEVER PRACTICAL

Current Practice:

Current practice for HUD-assisted multi-family housing renovation is to make a small set percentage of units "handicapped accessible" according to a relatively extensive list of requirements, while leaving the other units entirely without access, regardless of the ease with which the other units could be modified.

Drawbacks of the Current Practice

When a few units have full access while all the other units have none, some of the unfortunate results include the following:

--people with mobility-impairments are segregated from others, isolated in their own homes, and cut off from the gatherings, meetings, friendship-building and other important life experiences that take place as people visit one another.

--when non-disabled persons occupying inaccessible apartments develop an impairment, they must disrupt their lives and their families' lives by attempting to find a new place to live or waiting until expensive renovations can be done. Meanwhile they often remain severely confined in their inaccessible home, or unable to return home from a hospital, or sent prematurely to a nursing home because of lack of access

--in reality, many low-income people who develop mobility impairment do not ever have the opportunity to move because of the difficulties involved. Instead remain in inaccessible apartments which are unsafe, a demeaning and frustrating. A resident in these circumstances cannot enter or leave the apartment without being carried because there is no ramp, and the resident can not use the bathroom because the door is too narrow.

--the current system of having a small percent of apartments with full access and the rest with no access deprives apartment complex managers of flexibility in renting. Accessible apartments may sit empty because no appropriate user comes along soon enough, so the manager naturally and rightly rents the unit to a non-disabled renter in need of a place to live. Then a disabled person arrives and the apartment is already occupied--so they have to look elsewhere. If there were many units with basic access, the disabled person could move in to one of those, and then transfer if desired when a more fully accessible unit opened up.

--Construction guidelines already exist for the extensive renovation of designated handicapped accessible units; but no specific guidelines exist as a master plan for less extensive, cost-effective renovation for simple, basic access. Therefore, developers are doing "all or nothing" because they lack a model for doing "a little something." Yet this "little something"--e.g., attention only to interior door widths and apartment entrances --would render apartments visitable by all mobility-impaired visitors, and in fact rentable by most.

This situation could be easily remedied: CASE IN POINT:

Progressive Redevelopment Inc. in Atlanta GA received federal assistance in a public-private partnership to renovate an abandoned 8-story hotel into efficiency and one-bedroom apartments. The building is to be gutted, with only the floors and stairwells remaining. When disability activists asked to see the architectural drawings, we discovered two major problems. First, while the 15% "handicapped units" had 32-inch clear bathroom doors, all of the other 85% of the units were slated to have new 26-inch bathroom doors, which would not permit passage of a wheelchair. Second, all of the designated "handicapped units" were efficiency, while all other prospective residents would be offered a choice between one-bedroom and efficiency. We asked that the plans be redrawn, and the plans now include 32-inch bathroom doors on all units and a mix of efficiency and one-bedroom for the 15% fully accessible units.

These changes will add zero cost to the project. The original plans unfortunately met existing guidelines.

Goal of Proposed Change

Create economically feasible, significantly increased basic access in federally-assisted renovations of multi-family housing projects, both public housing and public-private partnerships. The percent of units rendered fully accessible would remain consistent with current HUD guidelines. The remaining units would be evaluated individually to see if they are economically feasible for the construction of lesser, basic access features. When feasible, this basic access would be constructed. As a result, each of major drawbacks listed on the previous page would be significantly addressed.

Segments of Proposed Project

- (1) Designate which construction features will constitute "visitable" features, i.e. features which achieve basic but not full access.
- (2) Develop guidelines by which each unit of a multi-family building or development can be evaluated to determine whether the unit is feasible for access features to be added in a cost-effective way.
- (8) Research and apply means whereby increased access can be encouraged immediately, without lengthy processes, such as revising the point systems through which funds are awarded. Reward those projects which include the maximum access which is practical in the given project.

Contact persons:

Eleanor Smith
Concrete Change
1371 Metropolitan Ave. SE
Atlanta GA 30316 phone: (404)378-7455

Becca Vaughn
Topeka ILRC
501 SE Jackson, Suite 100
Topeka KS 66603 phone: (913)233-4572

RATIONALE FOR REQUIRING BASIC ACCESS IN ALL NEW SINGLE-FAMILY DWELLINGS CONSTRUCTED WITH FEDERAL ASSISTANCE IN PUBLIC OR PUBLIC-PRIVATE PROJECTS

Current Practice

New single-family dwellings constructed with federal assistance do not have to meet any guidelines which would facilitate a person with a mobility impairment to visit, rent or purchase these homes. As a result, the great majority have steps at every entrance and bathroom doors which are narrower than the other interior passage doors and do not permit a wheelchair to enter the bathroom.

Drawbacks of the Current Practice

It is unjust for public money to be used to create houses which a significant portion of the public cannot easily visit, and are not appropriate for them to rent or buy. It is impractical to create new inaccessible housing in a time when the elderly population is growing rapidly and younger people with disabilities are surviving longer due to medical advances. Lack of access to other people's homes leads to segregation and isolation. Lack of access to one's own home leads to unnecessary dependency, exorbitant renovation costs, or being forced into an institution.

This situation can be easily remedied. CASE IN POINT:

The director of the Macon Housing Authority in Macon GA obtained federal funds to create over 100 single-family homes. Because he was sensitized to disability due to the mobility-impairment of a family member, he chose to build all of the homes with one no-step entrance and 32-inch bathroom doors. The additional cost was zero.

Hard evidence exists, not only through this project but through the construction of hundreds of "visitable" single-family homes in Atlanta, that the extra financial cost of basic access features is minimal, while the social and financial cost of lack of access is high.

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**National Action Coalition
for
Disability Rights
in
Housing**

November 8, 1995

To: Secretary Henry Cisneros

From: The National Action Coalition for Disability Rights in Housing

Dear Secretary Cisneros,

Please review the enclosed information and past correspondence which will hopefully assist you in recalling our continued efforts to meet and communicate with you over the last several months.

Through this time our objective has been to meet with you and establish meaningful dialogue toward creating an equal housing policy that reflects the civil rights of people with disabilities. Our mission has remained constant and we are certain that your intentions are the same.

While your past attempts to acknowledge our communications by assigning us to members of your staff have been at least an acknowledgement of our existence. We feel that those marginal attempts have failed to foster true and meaningful interaction. We want to work with you and the HUD staff to make meaningful changes not a continuation of the same rhetoric.

This is a time of constant change and the housing crisis is continuing to grow. You must today begin to show true leadership and a strong commitment to working with the actual customers of HUD, people with disabilities.

Thank you for your attention to this urgent request for equality, justice and civil rights in our country.

**National Action Coalition
for
Disability Rights in Housing**

**What We Want and Do Not Want
in Housing Legislation**

Legislation must:

- 1. Provide for more housing vouchers** for ALL persons with incomes at or below 30% of Median Family Income (MFI).
 - a. At least 50% of the vouchers must go to persons whose income is at or below 30% of MFI.
 - b. Vouchers must be usable for homeownership or rental.
 - c. The process for determining fair market rents (FMRs) must be reviewed and improved in ways that make more rental housing available. FMRs for accessible units must accurately reflect market rates for *comparable, accessible* units.
- 2. Provide for the conversion of all project-based assistance, that now goes to public and private housers, into vouchers that will go directly to persons of low-income.**
 - a. Convert all project-based 811 funds into vouchers for persons with disabilities.
 - b. Provide for community advocacy organizations, not housers like the public housing authorities or service providers, to administer the rental voucher program.
- 3. Provide for a "reasonable modification" fund** for persons with disabilities who need to make structural changes to a home/rental unit.
- 4. Include statutory language that requires all housers, banks and mortgage companies to treat a federal assistance housing voucher as "income"**, and include language that makes any discrimination on the basis of a person's status as a holder of a voucher illegal.
- 5. Retain the current "federal preferences"** and clarify that :
 - a. Those individuals who are "homeless" must be the top priority of all states and communities;
 - b. The definition of "homeless" includes those persons with disabilities who are in institutions. State psychiatric hospitals, nursing homes, intermediate care facilities, group homes, so-called "transitional" facilities, "shared living" programs and residential treatment facilities are "institutions".
 - c. Housing that is "inaccessible" is "substandard".
 - d. If someone cannot return to her/his home for reasons related to her/his disability, that person is to be considered either "homeless" or "involuntarily displaced" (depending upon the individual's circumstances.)

6. Allow local and state preferences, but only if they are secondary to federal preferences, and only if the local and state preferences:

- a. are based on low-income status;
- b. are based on demonstrated need for housing;
- c. do not violate civil rights and fair housing laws.

7. Use the Fair Housing Act's definition of "disability" (i.e. having a physical or mental impairment that significantly affects a major life activity.)

8. Make "having a disability" an "enhancer" of any federal, state, or local preference.

9. Require the creation of advisory and "citizen" boards. Require that a disability advisory board be established at the federal level, and require that "citizens boards" (that must include advocates and persons with disabilities) be established at state and local levels.

10. Prohibit "set-asides" or "targeting" based on subgroups of persons with disabilities or TYPE of disability.

- a. Prohibit "targeting" based on service needs.

11. Prohibit use of funds for services unrelated to housing. Prohibit the use of any federal housing funds, including and especially any portion of monies identified for housing for persons with disabilities, to pay for service coordination, services, or any other non-housing related activities.

12. Exempt persons with disabilities from any program requirements related to work.

13. Require that all new single-family homes and multifamily projects are "visit-able". All newly constructed homes must have at least one entrance that is wheelchair accessible.

14. Require that at least 2% of all new single-family homes and multifamily projects are accessible to persons with multiple chemical sensitivity or environmental illness. At least 2% of all newly constructed homes must be free of materials that are known toxins to

many individuals with the disability of multiple chemical sensitivity or environmental illness.

14. Require that all expenditure of federal monies be in ways that are consistent with independent living and consumer-survivor models.

15. Prohibit forced segregation on the basis of diagnosis, disability, category of disability, service need, or service use. Prohibit group homes, apartment buildings, floors or wings, "transitional" or "supportive" housing, or any other form of housing from segregating on the basis of diagnosis or service need or use.

16. Prohibit linkage of housing with services. Prohibit any linkage of services to housing. Prohibit all mandatory service requirements related to development of housing programs, eligibility for housing, tenancy or ownership, eviction, or foreclosure, and intimidation or coercion (including actions to force involuntary treatment), or any other illegal use, or threat of withdrawal of services related to housing.

17. Prohibit diagnosis- or category-specific disability organizations from administering housing programs.

18. Establish an "access tax credit" for housing providers who make structural modifications and/or programmatic accommodations needed by persons with disabilities.

19. As a condition of receiving CDBG funds, require communities to include in their code enforcement the monitoring of residential new construction for compliance with the Fair Housing Act.

20. Require that a primary purpose of federal housing funds is to guarantee the fair housing rights of persons with disabilities.

TYPES OF HOUSING PROGRAMS

Housing Legislation Must <u>Provide for</u>	Housing Legislation Must <u>Prohibit</u>
<u>Homeownership</u> 1. Voucher and Mortgage Programs examples: · single family · condo · co-op 2. "Reasonable modification" fund · for persons with disabilities who need assistance making housing (including housing programs) accessible.	Prohibit project-based assistance, for example: · group homes · shared living · segregated apartments** · disability-specific** · disability-only** · elderly-only · family-only Prohibit services linked to housing, for example: · transitional housing · supportive housing · group homes · residential treatment facilities
<u>Rental</u> 1. Voucher Program examples: · private apartments · private homes · private room · with others of choice · emergency shelters · temporary housing 2. "Reasonable modification" fund · for persons with disabilities who need assistance making housing (including housing programs) accessible.	Prohibit traditional homeless shelters based on the "shared living" model (anything that provides less privacy than a private sleeping area for each person.)

** Unless such housing meets the Section 504 condition that such segregated housing is necessary in order to provide housing for a specific group that is as effective as housing for other groups. For example, in order to provide housing for persons with environmental illness or multiple chemical sensitivity, that housing may need to be segregated from other housing because of the toxic materials that are present in "standard", integrated housing.

ADMINISTRATION OF PROGRAMS

Housing Legislation Must <u>Provide for</u>	Housing Legislation Must <u>Prohibit</u>
A <u>federal disability advisory board</u> comprised only of: - persons with disabilities - advocates of persons with disabilities	Prohibit any non-consumer-controlled housing or service providers, but, especially, disability-specific providers of housing and/or services, from being on the federal advisory board, or the state and local boards.
<u>State and local citizen boards</u> must include persons with disabilities.	
<u>Types of agencies</u> that may administer voucher or mortgage programs: - community-based - non-housers - non-service providers	Prohibit any non-consumer-controlled housing or service providers, but, especially, disability-specific providers of housing and/or services, from administering any housing programs.
<u>Independent living and consumer-survivor models:</u> require that all expenditure of federal monies be in ways that are consistent with independent living and consumer-survivor models.	Prohibit industry-owned and managed "special" housing for persons with disabilities. Prohibit "behavioral contracts", special terms and conditions, "voluntary treatment agreements", or any other attempts to reduce/deny the civil and fair housing rights of persons with disabilities.
<u>Housing only</u> require that federal housing funds be used only for housing - not for non-housing services, nor for institutions (eg. group homes, supportive housing, etc.)	Prohibit use of funds for "supportive services", "service coordinators", meals, transportation, medical treatment, and any other service unrelated to housing.
<u>Prohibit linkage of housing with services.</u> Prohibit all mandatory service requirements related to development of housing programs, eligibility for housing, tenancy or ownership, eviction, or foreclosure, and intimidation or coercion (including actions to force involuntary treatment), or any other illegal use, or threat of withdrawal of services related to housing.	
<u>Prohibit forced segregation on the basis of diagnosis, disability, category of disability, service need, or service use.</u>	
<u>FMR determination process to be improved</u> - the process for determining fair market rents (FMRs) must be reviewed and improved in ways that make more rental housing available. - FMRs for accessible units must accurately reflect market rates for comparable, accessible units.	Prohibit the FMR for accessible units to be the same as, or than accessible units unless there is documentation that comparable, accessible units are truly equal to or less than the cost of inaccessible units.

VOUCHER PROGRAM

Housing Legislation Must <u>Provide for</u>	Housing Legislation must <u>Prohibit</u>
<u>Conversion of all project-based assistance into vouchers that will go directly to persons of low-income.</u> a. convert all project-based 811 and 202 funds into vouchers for persons with disabilities. b. convert all other project-based assistance, that now goes to public and private housers, into vouchers for all eligible households.	Prohibit project-based assistance, especially to disability-specific, gender-specific, race-specific, and other illegal projects.
<u>Vouchers for three types of housing programs:</u> ·homeownership ·rental ·emergency shelter	Prohibit restrictions on use of vouchers: ·all eligible households must be allowed to use the vouchers to live anywhere they choose (eg. a homeless person must be allowed to use the voucher to purchase a home - if they are otherwise qualified.) ·there must be no residency requirements
<u>Reasonable modification fund</u> ·for both rental and homeownership programs, must be a fund for modifications needed by persons with disabilities.	"Modernization" monies should not be provided to public housing projects nor to private projects - but, rather, funds should be given directly to the individuals to make whatever structural changes they need wherever they want to live.
<u>Voucher equivalent to "income"</u> ·voucher must be treated as "income" by <u>all</u> housers, banks, mortgage companies, etc. ·adverse treatment because of status of holder of a voucher must be illegal.	Prohibit denial of housing or any other discrimination because of a person's status as a recipient of a voucher.
<u>Portability</u> · must be able to take and use a voucher anywhere in the country.	Prohibit residency requirements or geographic limitations on the use of vouchers.
<u>Prohibit the linkage of voucher availability to services, service needs, involuntary commitment or any other non-housing or "treatment" requirements.</u>	
<u>Prohibit the requirement that persons with disabilities perform any type of work in order to be eligible for a voucher. However, a person with a disability may not be prohibited from volunteering to participate in a work program.</u> · the housing program that requires others to work must provide for child care, transportation, personal attendant and other costs associated with individuals participating in the work program.	

ELIGIBLE AND PRIORITY POPULATIONS

Housing Legislation Must <u>Provide for</u>	Housing Legislation Must <u>Prohibit</u>
<u>Basic Eligibility Categories:</u> - persons with disabilities - families with children - elderly	Prohibit eligibility criteria related to ability to work.
<u>Definition of "Disability"</u> use Fair Housing Act's definition of "disability".	Prohibit eligibility criteria that includes asymptomatic conditions as "disabilities".
<u>Homeless: highest priority population</u> - retain current definition - include persons with disabilities in institutions - include persons who are living in inaccessible units as living in "substandard" housing	Prohibit disability-specific and work-related priorities. Do not require individuals or families to stay in shelters to be considered homeless.
<u>2nd Priority: involuntarily displaced</u> if someone cannot return to her/his home for reasons related to her/his disability, that person is to be considered either "homeless" or "involuntarily displaced" (depending upon the individual's circumstances.)	
<u>3rd Priority: paying more than 50% of income for housing</u> includes those in group homes and other institutions who must surrender almost all of their monthly income for "housing" and "services" (including meals).	
<u>"Having a disability" as an "enhancer" of any priority status.</u>	
<u>Income Targeting</u> at least 50% of federal resources should be targeted at persons who are at or below 30% of MFI.	Prohibit income targeting aimed at those with higher incomes and that excludes those with lower incomes.
<u>State/local preferences</u> - allowable only if they are secondary to federal preferences - must be based on severity of housing need - must be for very low-income - may not violate civil rights and fair housing laws	Prohibit preferences that are based on residency, ability to work, diagnosis, service need, or other irrelevant criterion.
Any preferences must be based on <u>severity of housing need</u>. Any preferences or set-asides based on "disability subgroups", diagnosis, service need, age, ability to work or other irrelevant criterion <u>must be prohibited</u>.	

ACCESS

Housing Legislation Must <u>Provide for</u>	Housing Legislation Must <u>Prohibit</u>
<u>Visit-ability</u> at least one entrance of all new single-family and multifamily homes built with federal assistance must be "visit-able".	
<u>Environmental illness/MCS access</u> - at least 2% of all new single-family and multifamily homes built with federal assistance (including mortgages) must be made accessible to persons with multiple chemical sensitivity or environmental illness. - all renovations using federal financial assistance must use materials and practices that are non-toxic to persons with mcs/ei, in general.	
<u>Access tax credit</u> a federal "access tax credit" must be established for housing providers who make structural modifications and/or programmatic accommodations needed by persons with disabilities.	
<u>Local code enforcement of FHAA new construction guidelines</u> as a condition of receiving any HUD funds (including COBG funds), communities must be required to include in their code enforcement the monitoring of new residential construction for compliance with the Fair Housing Act.	
<u>Local commitment to Fair Housing Laws</u> as a condition of receiving any HUD funds, communities must have a fair housing compliance procedure and must clearly prohibit segregation of any individuals on the basis of "considerations" prohibited by the Fair Housing Act and Section 504 (i.e. race, color, religion, sex, nationality, familial status, or disability)	

National Action Coalition for Disability Rights in Housing

WHO WE ARE.....

The National Action Coalition for Disability Rights in Housing is a national grassroots network of individuals with disabilities, disability advocates and organizations, and customers of federal programs, who have extensive experience in local and national housing arenas.

The National Fair Housing Summit held in Washington D.C., January 1994, was the catalyst for the formation of the coalition.

The coalition includes individuals, groups and advocates of persons with all types of disabilities. We operate in ways which affirm the civil and human rights of people regardless of disability, gender, race, ethnicity, national origin, religion, sexual orientation, age or color.

WHAT WE DO.....

Through an array of activities such as education and outreach, advocacy, direct action and publicity, we work on the federal, state and local levels to insure that the civil and human rights of persons with disabilities are recognized and fully honored in provision of housing. We work to insure that the independent living and consumer/survivor models based on CONSUMER CONTROL AND CHOICE, INTEGRATED LIVING, VISITING OPTIONS AND FREEDOM FROM MANDATED SERVICES are followed in the provision of housing.

Through ongoing grassroots networking we gather and circulate information and advocacy strategies on a wide range of housing and fair housing issues. Our national network, provides our local coalition members the ability to utilize the replicate model housing and fair housing programs and successful advocacy strategies.

GOALS.....

- * Continue development of model outreach and advocate training toward building a grassroots action coalition
- * Activity train people with disabilities to participate in housing policy and related legislative processes such as
 - * development of Consolidated Plan
 - * participation in local and state housing groups
 - * delivering testimony at local, state, national levels
- * Understanding and using housing laws and regulations to defend housing rights for people with disabilities
 - * Fair Housing Act
 - * Section 504
 - * Community Reinvestment Act (CRA)
 - * Farmers Home Administration
 - * Public Housing Manuals
 - * other agencies which are involved with various aspect of housing
- * Intensively work to promote and incorporate the coalition's position in the activities of other housing and disability organizations
- * Build coalition in all 50 states with a goal of outreaching to 10 states per year
- * Create and disseminate a newsletter on regular schedule
- * Secure funding to sponsor coalition representatives to attend conferences and activities related to local, state or national housing issues
- * Organize and sponsor national grassroots housing conference aimed at providing education, advocacy training and local coalition building to people with disabilities
- * Expand current and develop new information packets on activists strategies to effectively address housing concerns
- * Elimination of discriminatory housing and mortgage practices through continued direct action and consumer control
- * Secure additional resources needed to continue to achieve our goals

ACCOMPLISHMENTS.....

- * Identified and established a core group of individuals with similar concerns regarding housing issues for people with disabilities.
- * Developed a formal communications network among members via
 - * monthly tele-conference calls
 - * weekly faxed information bulletins
 - * developed data-base of new members
 - * mass mailings of coalition information packets to individuals and disability groups nationwide
- * Brought core membership together and 2 weekend conferences to
 - * develop mission statement and goals
 - * develop national strategies and plan coalition's scope of activities
- * Developed and widely disseminated written report and recommendations in response to HUD's Re-invention Bluespring, with the endorsement of 25 individuals and organizations (see attached).
- * Coalition members have used our written document to
 - * defend and further the housing rights and choice of people with disabilities in their local communities and states
 - * education, outreach and local coalition building
 - * expand national membership
- * As the only grassroots, disability and customer driven group, we successfully negotiated and established ongoing meetings with top officials from HUD headquarters to address:
 - * lack of enforcement of Section 504 and Fair Housing laws
 - * delinking of mandatory services from housing
 - * elimination of diagnosis specific housing
 - * the increased availability of tenant-based Section Eight vouchers and certificates
 - * current and future housing policy
- * Each coalition member has developed educational materials and strategies for national housing advocacy, specific examples include
 - * successfully met with Habitat for Humanity in 7 states to promote "basic access" in all new houses built
 - * successfully obtained and disseminated among membership, lists of federal housing fund recipients in an effort to monitor regional and national enforcement of Section 504 and Fair Housing laws
 - * model home mortgage program was developed in two additional states as a result of coalition networking
 - * strategies for impacting local and state development of "Consolidated Plan"
 - * promotion of the participation of people with disabilities in fair housing testing

**I SUPPORT THE NATIONAL ACTION COALITION
FOR DISABILITY RIGHTS IN HOUSING**

NAME:

ORGANIZATION:

ADDRESS:

TELEPHONE:

FAX:

E-MAIL:

OTHER:

YES, I WANT TO SUPPORT THE ADVOCACY WORK OF THE NATIONAL ACTION COALITION FOR DISABILITY RIGHTS IN HOUSING. MY SUPPORT FEE WILL ASSIST THE COALITION WITH THE COST OF KEEPING ME INFORMED ABOUT IMPORTANT ISSUES AFFECTING HOUSING RIGHTS AND CHOICE OF PEOPLE WITH DISABILITIES.

\$10.00 _____ INDIVIDUAL

\$20.00 _____ ORGANIZATION

\$0.00 _____ I AIN'T GOT NO DOUGH, BUT PLEASE SEND ME
THE INFORMATION

_____ I WANT TO MAKE A DONATION TO SUPPORT THE
ONGOING WORK OF THE COALITION!!

CONTACT: BECCA VAUGHN - NACDRH
501 SW JACKSON, SUITE 100-B
TOPEKA, KS 66603
PHONE# 913-2334572
FAX# 913-233-5072

THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY



FACSIMILE TRANSMITTAL SHEET

FROM: Bonnie M. MilsteinOFFICE: Program Compliance & Disability RightsOFFICE NUMBER: (202) 708-2618 x207FAX NUMBER: (202) 708-1251

NUMBER OF PAGES: _____ (Including Cover Sheet)

TO: DIANA FORTUNA

COMPANY NAME: _____

OFFICE NUMBER: _____

FAX NUMBER: 456-~~5578~~ 7431REMARKS: _____

If you do not receive all pages, please call:

(202) 708-2618

JUL 21 1995

MEMORANDUM FOR: Henry G. Cisneros, The Secretary

FROM: Elizabeth K. Julian, Deputy Assistant Secretary for Policy and Initiatives, EP

SUBJECT: White House Meeting on Housing and Disability

On July 5, 1995, Diana Fortuna and Molly Brostrum of Carol Rasco's Office of Domestic Policy staff invited representatives from each of HUD's program offices to meet with them. I attended the meeting along with Helen Dunlap and Margaret Milner, Office of Housing; Mary Ann Russ, Office of Public and Indian Housing; Marge Turner, Office of Program Development and Research; and Clare Doyle and Thea Spires, Office of the Secretary. (Jacquie Lawing was unable to join us and asked Clare to represent the Office of Community, Planning and Development.)

Ms. Fortuna explained that the Office of Domestic Policy had received numerous letters from disability advocates from around the country complaining about both current HUD policies and policies that the Department has enunciated in its Reinvention Blueprint. Specifically, Ms. Fortuna focused on the complaint by the disabled advocates that the Department is promoting and funding segregated, diagnosis-specific housing and service connected housing that made continued tenancy dependant on compliance with involuntary treatment.

I and representatives from CPD had recently met with a Coalition of Disabled persons who had raised these issues, and requested that we reconsider our position on "Section 6" which provides the legal authority for disability-specific housing. I was in the process of preparing a memo for you when this meeting came up, so I decided to wait and roll it all into one.

At the meeting with the DPC folks, each of us briefly described the housing programs currently available to people with disabilities, and the problems associated with them. For example, MaryAnn Russ explained that all public housing authorities are required to make at least 5% of all of their units accessible to people with mobility impairments and 2% of their units usable by people with vision and hearing impairments. In spite of the Department's efforts to enforce these requirements and the Housing Authorities' willingness to comply, it was impossible to do so without sufficient modernization funding.

Similarly, MaryAnn explained, the debate among the elderly and non-elderly people with disabilities stemmed largely from the lack of accessible, affordable housing anywhere in most communities except in housing for the elderly. A long-term solution to the

problem would be compliance with the Fair Housing Act's requirement that all multi-family housing built after 1991 be structurally accessible. Yet, throughout the country, compliance is practically nil.

Helen Dunlap talked about the increased flexibility that the Office of Housing has built into their assisted housing programs. Non-profits may now use Housing funds to purchase cooperative shares or condominium units for people with disabilities in mainstream multifamily buildings; providers may provide services, but the services may be separate from the housing units and providers may not make accepting services a condition of occupancy; and non-profits may apply for Section 811 funds to create or to purchase housing units scattered throughout the community.

On the other hand, Helen explained, under the Reinvention legislation the funding now provided for Section 811 housing, like the Section 202 housing, would be included in the Affordable Housing Fund. AHF grantees would be able to choose whether to use all of the funds for housing development, or whether to provide project-based assistance for some or all of the housing developed for people with disabilities. The Department had concluded that preserving the block of funding now designated for the 202 and 811 programs was more politically prudent than separating the rental assistance portion (approximately 55% of the total) from the development portion and transferring the rental assistance portion to the Housing Certificate Fund. Had the funds been separated thus, and the residents' interests severed from that of the providers, the funding for those vouchers might well become more vulnerable to the same cutbacks that threaten the Section 8 voucher program.

Clare Doyle described the merging of 60+ programs into the Affordable Housing Fund and the continuation of the continuum of services approach of CPD. The focus of the AHF will be greater local discretion, including permitting the creation of disability-specific, diagnosis-specific, and service-connected housing. Unlike housing for the elderly, in which elders are housed without regard to the variety of disabilities they bear, housing for non-elderly people with disabilities may be limited by municipalities to segregated, diagnosis-specific service and housing treatment programs. It is this provision of our legislation that has drawn the most fire from the disability advocates, since it makes possible something that would otherwise be not be allowable under 504 and the Fair Housing Act. They contend that this sends exactly the wrong policy signal on the importance of allowing disabled people to integrate into community.

I related that there had been discussion in the Department on this specific issue, and that the policy call was not unwittingly made. I reiterated that CPD felt that there were other parts of the

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disabled community, particularly those associated with the providers of housing and services, that strongly supported both disability specific housing and service-linked housing, and that the policy call had been essentially made in their favor on the issue of the AHF. On the other hand, the HCF clearly moved toward greater flexibility and choice for those who prefer housing assistance de-linked to location and services.

In summing up, Ms. Fortuna reflected that the current and proposed HUD programs appeared to contain some inherently contradictory messages on the issue of disability housing policy. On the one hand, the programs were moving toward providing housing consumers, including disabled people, with greater choice and flexibility in the housing made available to them. On the other hand, civil rights-related housing decisions affecting the disabled are being returned to local governments who will not necessarily use their increased control over housing dollars to promote desegregated housing opportunities. The fact that the Affordable Housing Fund would provide the legal support for local governments to create segregated, disabled-only housing appears to some in conflict with the choice and integration mandates of the Department's civil rights laws and the vision of the Blueprint.

Ms. Fortuna concluded that she and Ms. Rasco would continue to meet with disability advocates, but I don't think she felt comfortable with our efforts to reconcile the various messages. I don't know if you care to revisit these issues, but if you would find it useful, MaryAnn, Marge, Helen, Jacquie and I would be happy to reprise our discussion with you.

While the argument can be made that we should use our limited resources to only support choice and independence, deciding that "choice" really involves making both types of housing available, is defensible from a policy standpoint. It is also consistent with our approach on the need to provide decent and comparable housing opportunities both within and without minority areas, recognizing that true choice means making both available.

While it may be too late, and/or politically unwise to consider articulating clearer civil rights requirements into our legislation, the question continues to arise. I believe we may be called to a follow-up meeting with Carol Rasco, and it might be well to have a more coordinated statement of policy than that reflected in the separate program approaches.

Please let me know if you want further information or discussion on this issue.

11/7 conversation w/ Bonnie Millstein

2 changes since July
(Sec'y met w/ Marsha Bristol → chair of Nat'l Council on Disab on)

Disab Hsg Progs

(4:1)

202 - used to be both srs + disab

'90 → split into 811a + b

Now, 202

811a - can be turned into rental vouchers

• 232 → Insurance Prog for Nhomes

236 → Ass'td hsg - where ^{HWD} deny
231c3 → 504 apply

• CPD - HOPWA

• PDR - ^{part that} little data on prod

• New Pub Hsg → townhouses not accessible
(not covered by FH New Constr)
→ condos

Mixing (srs + disab) definition
- 92 → d'd to be pple over 60
- gave phas auth to designate elderly only or disab only

- only 30 phas have applied / submitted plans for HUD approval

- HR 415 passed last wk;
- prohibit pple w/ da + aa

- S → would elim alloc entirely

Congress interpreted as HUD had issued one vs negs

- disab gps like negs
(if you're going to allow de-mixing done in accessible way)

① - SAP → Oct. 24 supported

Ellen Weber - Legal Action Center
544-5478 - represents data

② ADAPT showed up at HUD offices demanding that HUD stop supplying Nhomes + put into personal care / attendants

as result, Nic Retzhaus
Helen Dunkley
Margaret Miller } met w/ them

- made some promises

• HUD's - failure to make multifam hsg adaptable

• info that HUD staff telling pple getting # thru 236 program that 504 doesn't apply to them (HUD looking into)

• want hsg + services de-linked → HUD Reim: Aff'ble Hsg Fund - non-profits apply - focus on providers → don't like cont of care

• don't like diagnosis - specific housing

• HUD only cares abt providers, not consumers

• Nichols speech

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

26-Oct-1995 11:55am

TO: Molly Brostrom

FROM: Diana M. Fortuna
 Domestic Policy Council

SUBJECT: RE: disability and hsg

Great; I set it up for 9:15 on the 9th. I said we'd do it in your office, so hope you don't mind. It's just the 2 of them; I'll wave them in.

This group is pretty grass-roots and very opposed to provider-based, diagnosis-based, non-integrated housing. I wouldn't say they're radical/fringe, because I think a lot of the disability community feels the way they do, but they have that outlook. They have been very nice over the phone and seem excited we're meeting with them.

I had a long conference call with them months ago where i sounded pretty sympathetic to a lot of their concerns without knowing exactly how far I could go. I'm a bit nervous because they've translated that into saying they really felt encouraged by my call.

Also, she said they are meeting with Secretary Cisneros on the 8th. Therefore, I think we'll have to meet with HUD or at least talk with them before our meeting, to make sure we're coordinated. Who do you think we should talk to at HUD? Might it be Lori Bamberger, since she's in Cisneros office and seems to know a bit about this (more than Clare did)? We could pull together that whole HUD group again, plus Lori and Jackie Lawing, but I'm a bit reluctant to do that without our first getting a grip on where we are.

Did I send you a packet of info from them prior to our HUD meeting? If not, or you're not sure, I can cc you.

Notes from meeting in OEGB 211 on July 5, 1995

HUD and people with disabilities:

Two important issues:

- 1) should housing be linked with services
- 2) segregation

-segregation is a criticism that can be leveled at specific housing programs especially those involving vouchers and "boutique housing" in order to get more housing

There are different parts of HUD, a delivery system:

- 1) insure -- creditor
- 2) subsidies -- developers and residences
- 3) money for services
- 4) money for building and developing housing

Influence in these areas is not necessarily direct.

FHA also the Office of Housing (8-11 program)

- mortgage insurance indiscriminately developing and building housing some is targeted such as nursing homes and assisted living
- lender w/ direction from Congress, trying to become more modern go from 20-30 programs to 3-4 programs.

8-11 program:

-financing and subsidies given to people who are eligible, it is a national, but is project specific which may lead to disability specific housing

-want to move towards a less segregated program, vision would be that in 1996, 8-11 would become part of block granting but it is really very unlikely.

-service coordinator component ?

PUBLIC HOUSING:

-there is almost no new development, basically just replacement housing. Rule 504 has as a baseline that 5% of units have to be accessible to people with disabilities

-the issue now is retro-fitting of existing units
-150,000 heads of households who are disabled
-people with disabilities have traditionally been clumped with the elderly.

Affordable Housing Fund:

-aim is to consolidate the:
- Home program- contrary to 504 regulations so could have disability specific housing
- Homeless block grant: combine programs into one, a continuum of care

often people with disabilities who happen to be homeless have few options:

- diagnosis specific - residents often don't want the services that are required for these units
- boutique
- transitional housing

It is expected that this Democratic Administration would do more than just reflect but would be at the forefront of setting policy that supported consumer choice not provider choice.

There can be two different groups identified within the group of advocates for people with disabilities:

- provider/establishment:
believe that housing and services should be linked, it is good business for them
- independent living

it is important to differentiate from these the actual people who have disabilities who are very user oriented

3 constituencies:
providers: owners and the developers
people with disabilities
state agencies: i.e. mental health agencies in 80s.

The marriage between elderly housing and that of housing for people with disabilities is full of tension

-there is a threat that becoming more tenant based will risk the loss of subsidies and make more vulnerable.

HUD would like to separate its roles of houser and lender and become more tenant based, but there will be the exception for localities to keep specific disability housing. The most important thing is to provide more choice (vouchers)

Project by project problems: i.e. nuns

Rental housing in the future will be service based.

All civil rights issues are in jeopardy when handed back to states and must be protected by federal law.
Do you empower the individual or the community?

Controversy: very little compliance with accessibility rule of the Fair Housing Law, insufficient money to enforce it.

How do we reply to the letters?

blueprint -- is a step in the right direction
 giving the consumer more choice
-- no strings attached, not required to take services
 in order to get housing.
-- no forced housing specific for disabilities