



For Customers of Ross Business Development, Inc.

# RBD FASTFACTS - SECTION 504 COORDINATORS

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FASTFacts  
Section 504 Coordinators

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Disclaimer

The material contained in this document is not comprehensive of the continually emerging issues surrounding policies in The Multifamily Housing industry. In addition, the handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in August 2013 and in December 2013 and subsequent notices and memos from HUD.

These materials were updated 1/2021.

The reader should understand that these materials are not designed for, nor should be relied upon, as a source of legal guidance or as a final authority with respect to any particular circumstance.

Ross Business Development makes no warranty of merchantability or fitness for a particular purpose or any other warranty of any type with regard to these materials.

Owners and management should seek competent legal advice in developing and carrying out housing policies and procedures.

We have been diligent in our efforts to provide comprehensive and accurate regulatory instruction; Ross Business Development shall not be responsible for errors or inaccuracies.

## SECTION 504 OF THE REHABILITATION ACT

The Rehabilitation Act prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors. This includes those properties with project-based HUD assistance programs and properties accepting vouchers through HUD's resident based assistance programs.



Section 504 addresses modification and accommodation rules for properties receiving federal funding. The scope of Section 504's coverage was to ensure that all federally funded programs are readily accessible and usable by qualified people with disabilities.

Section 504 establishes certain **affirmative** accessibility standards that owners must meet regardless of whether or not an applicant or resident has made an individual request for a reasonable accommodation.

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For properties accepting government subsidy, when an owner, managing entity, or project employs 15 or more people, regardless of their location or duties, the owner or managing entity must designate one person to coordinate efforts to comply with Section 504 requirements. At the owner's discretion, this person may handle Section 504 matters for more than one property.

HUD does not establish any formal training requirements for the Section 504 Coordinator.

To reduce the risk of a fair housing complaint, it is important that the Section 504 Coordinator receive training or, at the very least, becomes familiar with any guidance provided by HUD in relation to the rights of people with disabilities. For example, 504 Coordinators should review the Section 504 Questions and Answers document provided by HUD.

## COMMUNICATING WITH PEOPLE WITH DISABILITIES

It is important that owner/agents understand their requirements in regards to communicating information about 504 Coordinators.

### **Communicating Accessibility Features**

When an owner lists a telephone number, he/she **must** also list a TTY number or an equally effective system.

When a property is fully accessible, that fact **must** be stated or the universal symbol for accessibility should be used.

Paragraph 2-29 of HUD Handbook 4350.3 Revision 1 provides clear instruction.

*“Written communications **must** state that the owner does not discriminate against persons with disabilities. (See suggested language in Exhibit 2-3.)*

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### *Exhibit 2-3: Sample Notification of Nondiscrimination on the Basis of Disability Status*

**Paragraphs 1 and 2 and the name and address apply to owners, managing entities, or projects employing 15 or more people. Paragraph 1 applies to all other properties.**

1. \_\_\_\_\_ (Owner or project name) \_\_\_\_\_ does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs and activities.
2. The person named below has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development's regulations implementing Section 504 (24 CFR, part 8 dated June 2, 1988).

Name

Address

City

State

Zip

Telephone - Voice

Telephone – TTY

## **RESPONSIBILITIES OF THE SECTION 504 COORDINATOR**

The first thing to do is to set expectations regarding the Section 504 Coordinator's responsibilities. There are a lot of things to consider.

In order to be compliance with Section 504, owner/agents **must**:

- Take steps to ensure effective communication with applicants, residents, and members of the public. [24 CFR 8.6]; Adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities. Recipients **must** also take reasonable non-discriminatory steps to maximize use of such units by eligible individuals. [24 CFR 8.27];

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

- Ensure that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)];

For a federally assisted new construction housing project, Section 504 requires 5% of the dwelling units, or at least one unit, whichever is greater, to meet UFAS or a standard that is equivalent or stricter, for persons with mobility disabilities. An additional 2% of the dwelling units, or at least one unit, whichever is greater, **must** be accessible for persons with hearing or visual disabilities.

In March 2011, the Department of Justice (DOJ) advised Federal agencies that they may permit covered entities to use the 2010 ADA Standards for Accessible Design (2010 Standards) as an acceptable alternative to the Uniform Federal Accessibility Standards (UFAS) until such time as they update their agency's regulation implementing the Federally assisted provisions of Section 504.

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Consistent with DOJ's advice, HUD recipients have the option of using the 2010 Standards under title II of the ADA, except for certain specific provisions identified, as an alternative accessibility standard to UFAS for purposes of complying with Section 504 and HUD's Section 504 regulation for new construction and alterations commenced on or after May 23, 2014. This document is in effect until HUD formally revises its Section 504 regulation to adopt an updated accessibility standard.

- Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Ensure the recipients programs, services and activities meet the requirements of Section 504. Recipients **must** ensure that activities and meetings are conducted in accessible locations;

**Policy Development:** The Section 504 Coordinator should be able to review policies and procedures to ensure that there are no barriers that would preclude participation by someone with a disability. For example, if you require that all requests are submitted in writing, you may be excluding anyone who has a cognitive disability, anyone who is blind or anyone who has no hands or arm. While requiring written requests is not necessarily discriminatory, you might want to add some language that shows you will make an accommodation for someone with a disability.

For example:

*Existing residents **must** complete a Unit Transfer Request. The Unit Transfer Request **must** be completed and signed by the head of household and all adult household members who wish to move. The owner/agent will accept the Unit Transfer Request in an equally effective format, as a reasonable accommodation, if there is the presence of a disability.*

- Distribute accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided to others. [24 CFR 8.26]; To the maximum extent feasible, distribute accessible units throughout projects and sites, and make them available in a sufficient range of sizes and amenities so as not to limit choice.

In other words, accessible units in a single elevator building should be located throughout the building, and not just on the first floor. In projects having multiple buildings, accessible units also should be interspersed throughout these buildings, rather than in just one or two buildings. For example, in housing serving elders and persons with disabilities, persons with mental disabilities or any other disabilities may not be segregated on any one wing, floor, or in one building.

- Develop and implement a transition plan to assure compliance. [24 CFR 8.24] Conduct any required self-evaluations of programs, services, activities and properties to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations. [24 CFR 8.51]

**Self-Evaluation & Transition Plans:** Section 504 Coordinators should regularly review policies, services and properties to ensure equal access for people with disabilities. Consider all disabilities, not just mobility disabilities.

While these requirements do not extend to conventional properties, it is something to consider.

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Designating someone to act as the “expert” to address questions pertaining to reasonable accommodation and modification ensures consistent application of rules and reduces the risk for perceived discrimination.

- Adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. [24 CFR 8.53]; You are required to have a Section 504 Grievance Policy that describes what a person should do if he or she feels that he/she has been discriminated against based on the presence of a disability.
- Recipients with 15 or more employees notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. [24 CFR 8.54]
- Maintain records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if a complaint is filed, or if HUD conducts a compliance review. [24 CFR 8.55]
- Provide reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental alteration in the nature of the program, service or activity [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]; When an applicant or resident requires an accessible feature or policy modification to accommodate a disability, a federally assisted housing provider **must** provide the feature or policy modification unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden. See 24 CFR 8.4, 8.24, and 8.33 for further requirements and guidance.

**Development and Monitoring the Reasonable Accommodation & Modification Process:** All staff, but especially the Section 504 Coordinator, should be very familiar with the entire Reasonable Accommodation & Modification Process.

For some owner/agents, the Section 504 Coordinator is responsible for review of all Requests for Reasonable Accommodation & Modification.

In other cases, the Section 504 Coordinator is the person who considers appeals when a request has been denied. The responsibilities should be clearly defined. If the Section 504 Coordinator is not a site employee, then all site staff should be able to identify the Section 504 Coordinator.

### **TRAINING**

RBD offers training for the Responsibilities of the Section 504 Coordinator via RBD OnDemand Training. For additional information, visit our web site at <https://www.rbdnow.com/ondemand-training>.