

Federal, State and Local Definitions of Disability

<p>Federal Register FR-4608-P-01 dated August 21, 2000</p>	<p>For both the Rent Supplement Program and the Rental Assistance Payments Program, this proposed rule also updates the definitions for certain terms, that appear in HUD regulations, including ``disabled person" and ``handicapped person," by replacing them with the term ``person with disabilities" appears in section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013). For the definition of ``handicapped families," certain Federal Housing Administration statutes cross-reference the definition of the term in section 202 of the Housing Act of 1959 which program, for purposes of providing housing for handicapped and/or disabled persons, was replaced by section 811. There is no longer a definition for ``handicapped person" or ``handicapped families" in the Section 202 or Section 811 statutes. Section 811, however, does have a definition of ``person with disabilities" which is generally synonymous with the regulatory terms used for FHA programs.</p>
<p>Fair Housing Act 42 USC 3601 et al</p>	<p>a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such an impairment, or being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))</p>
<p>Fair Housing Act Regulations at 24 CFR 100</p>	<p>Handicap means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance. For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite. As used in this definition: (a) Physical or mental impairment includes: (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism. (b) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. (c) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. (d) Is regarded as having an impairment means: (1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation; (2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of other toward such impairment; or (3) Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment.</p>
<p>Quality Housing and Work Responsibility Act at 224 CFR 5; Definition for Admission</p>	<p>Person with disabilities: (1) Means a person who: (i) Has a disability, as defined in 42 U.S.C. 423; (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that: (A) Is expected to be of long-continued and indefinite duration; (B) Substantially impedes his or her ability to live independently, and (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or (iii) Has a developmental disability as defined in 42 U.S.C. 6001. (2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; (3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and (4) Means ``individual with handicaps", as defined in Sec. 8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.</p>
<p>Section 504 of the Rehabilitation Act of 1973 at 24 CFR 8</p>	<p>Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. For purposes of employment, this term does not include: Any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question, or whose employment, by reason of current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; or any individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job. For purposes of other programs</p>

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	<p>and activities, the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase: (a) Physical or mental impairment includes: (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism. (b) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. (c) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. (d) Is regarded as having an impairment means: (1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation; (2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or (3) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.</p>
<p>Americans with Disabilities Act of 1990 at 28 CFR 35</p>	<p>Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. (1)(i) The phrase physical or mental impairment means-- (A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; (B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (ii) The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism. (iii) The phrase physical or mental impairment does not include homosexuality or bisexuality. (2) The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (3) The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. (4) The phrase is regarded as having an impairment means-- (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation; (ii) Has a physical or mental impairment that substantially limits major[[Page 466]]life activities only as a result of the attitudes of others toward such impairment; or (iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment. (5) The term disability does not include-- (i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders; (ii) Compulsive gambling, kleptomania, or pyromania; or (iii) Psychoactive substance use disorders resulting from current illegal use of drugs. Drug means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).</p>
<p>Architectural Barriers Act of 1968 at 24 CFR 40</p>	<p>This part prescribes standards for the design, construction, and alteration of publicly owned residential structures to insure that physically handicapped persons will have ready access to, and use of, such structures.</p>

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<p>RCW 49.60.222</p>	<p>For the purposes of this chapter discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a blind, deaf, or physically disabled person includes: (a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the dwelling, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted; (b) To refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory, mental, or physical disability and/or the use of a trained guide dog or service animal by a blind, deaf, or physically disabled person equal opportunity to use and enjoy a dwelling..."</p>
<p>WAC 162-38-050</p>	<p>RCW 49.60.222 defines practices in connection with real estate transaction that are unfair when done because of the "presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a disabled person." Nothing in this chapter or in RCW 49.60 RCW, however, prohibits treating disabled persons more favorably in a real estate transaction than persons who are not disabled. Presence of disability. The presence of a sensory, mental, or physical disability includes, but is not limited to, an abnormal condition that: A) Is medically cognizable or diagnosable; B) Exists as a record or history; or C) Is perceived to exist, whether or not it exists in fact.</p>
<p>King County Fair Housing Ordinance, K.C.C. 12.20</p>	<p>S. "Disability" means, with respect to a person:1. A physical or mental impairment which substantially limits one or more of such person's major life activities, either temporarily or permanently,2. A record of having such an impairment, or3. Being regarded as having such an impairment, but such term does not include current,illegal use of a controlled substance (as defined in section 102 of the Controlled Substances Act as of the date of passage of this section (21 U.S.C. 802)),4. Any other condition which is a disability under the Washington State Law Against Discrimination as it pertains to real estate (RCW 49.60).T. "Use of a trained dog guide by a person with a disability" means the use of a "guide dog" as defined in RCW 70.84.020 by a blind or hearing impaired person and/or the use of a "service dog" as defined in RCW 70.84.021 by a person with a physical disability.</p>
<p>Seattle Municipal Code 14.08</p>	<p>RCW 49.60.222 defines practices in connection with real estate transaction that are unfair when done because of the "presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a disabled person." Nothing in this chapter or in RCW 49.60 RCW, however, prohibits treating disabled persons more favorably in a real estate transaction than persons who are not disabled. Presence of disability. The presence of a sensory, mental, or physical disability includes, but is not limited to, an abnormal condition that: A) Is medically cognizable or diagnosable; B) Exists as a record or history; or C) Is perceived to exist, whether or not it exists in fact.</p>
<p>City Code of Tacoma Chapter 1.29</p>	<p>R. The term "people with disabilities" means the presence of any physical, sensory, or mental impairment which substantially limits one or more major life activities (e.g., self care, ambulation, communication, transportation, education, socialization, and employment), but does not prevent the proper performance of the particular worker's job duties. S. The term "the presence of a sensory, mental, or physical disability" includes, but is not limited to, circumstances where a physical, sensory, or mentalcondition:1. Is medically cognizable or diagnosable;2. Exists as a record or history; or3. Is perceived to exist, whether or not it exists in fact. The term "disability" is further defined by thefollowing:1. "Physical Disability": A significant impairment to the function or appearance of a person's body.2. "Sensory Disability": A substantial reduction in visual acuity, hearing, or cutaneous sensation.3. "Mental Disability": An impairment to the normal processes of thought, communication, or learning ability which is substantial in degree, including impairment of intelligent reasoning, organic brain disorders, and psychoneurotic disorders as medically diagnosed. The condition of being or having been addicted to the use of alcohol or drugs does qualify, unless individuals are currently engaged in the illegal use of drugs.</p>