

# **PUBLIC HOUSING and COMMUNITY DEVELOPMENT**

## **DEFINITIONS**

### **APPENDIX I**

#### **OF THE**

### **ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

Effective

Revised 1-8-15

## **APPENDIX I**

### **Definitions**

**Adult**

A person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State or tribal law.

**Affiliated Individual**

With respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of parents), or any individual, tenant, lawful occupant living in the household of that individual.

**Applicant**

A person or family that has applied for housing assistance.

**Arrested**

Taking or seizing a person by legal authority, such as the police, in response to a criminal charge.

**Bifurcate**

**As defined by 24 CFR 5.2003**

To divide a lease as such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

**Black**

A person having origins in any of the Black racial groups of Africa. It includes people who indicate their race as "Black, African American, or provide written entries such as African American, Afro American, Kenyan, Nigerian, or Haitian.

**Child/Minor**

A member of the family (other than the family head or spouse) who is under 18 years of age.

**Complainant**

Any resident who files a grievance with the PHCD site manager of the development where the resident's unit is located.

**Continuity of Assistance**

A family is considered continuously assisted if it has been receiving housing assistance under any program of the U.S. Housing Act of 1937 without experiencing an extended interruption during the occupancy of the assisted unit. An interruption of four (4) months between the assisted occupancy of one unit and the assisted occupancy of another unit is considered discontinued assistance.

**Convicted**

Found or proved guilty of an offense or crime by the verdict of a court. A person who served a sentence of imprisonment.

**Criminal Records**

All criminal arrest records, including but not limited to sex offender registration records for all family members 18 years and over. PHCD will conduct such checks on household members who are younger than 18 years if they are being tried as adults for certain criminal offenses. If

PHCD discovers the family has a history of failure to comply with lease terms under previous landlords or fails the background check. The term “criminal records” does not include records unavailable to PHCD by operation of law, including sealed or expunged records, juvenile records, exempt records under Florida’s Public Records Act, or other records unavailable to PHCD under state and federal laws.

**Dating Violence (24 CFR 5.2003 and the Florida Statutes)**

The federal regulations defines “dating violence” as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- the length of the relationship;
- the type of relationship; and
- the frequency of interaction between persons involved in the relationship.

The Florida Statutes defines “dating violence” as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past six (6) months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

**Deconcentration of Income**

The admission of higher income families (50-80% of area median income) to developments where extremely low income families predominate and vice versa.

**Dependent**

A member of the family (excluding foster children, foster adults, or live-in aides) other than the family head or spouse, who is under 18 years of age, or is a person with disabilities, or is a Full-time Student.

**Disability Assistance Expenses**

Reasonable expenses that are anticipated, during the period for which Annual Income is computed, for attendant care and auxiliary apparatus for a Disabled Family member and that are necessary to enable the disabled member to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR 5.403)**

A family whose head, co-head, spouse, or sole member is a person with disabilities; or two (2) or more persons with disabilities living together; or one (1) or more persons with disabilities living with one or more live-in aides.

**Discriminatory Effect**

A practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated

housing patterns because of race, national origin, color, sex, religion, age, disability, familial and marital status, ancestry, sexual orientation, gender identity, transgender or source of income.

**Displaced Family**

A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Displaced Persons**

Include persons who can document that they have been displaced by a natural disaster declared by the President of the United States, displaced, through no fault of their own, by governmental action, or displaced by domestic violence.

**Domestic Violence (24 CFR 5.2003 and the Florida Statutes)**

The federal regulations defines “domestic violence” to include felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim share a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

The Florida Statute defines “domestic violence” as “actual or threatened physical violence directed against one or more members of the applicant's family by a spouse or other members of the applicant's household.” The Florida law further defines “domestic violence” as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

Additionally, domestic violence includes violence against a domestic partner.

**Drug-related Criminal Activity**

Illegal manufacture, sale, distribution, or use of a drug, or possession of a drug, with the intent to manufacture, sell, distribute or use the drug.

**Due Process**

An eviction action or a termination of tenancy in a State or local court in which the following procedural safeguard are required:

1. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
2. Right of the tenant to be represented by counsel;
3. Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses or equitable defense which the tenant may have;
4. A hearing before an impartial person(s).
5. A written decision of the merits.

**Earnings and Benefits**

Means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.

**Elderly Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR 5.403)**

A Family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one (1) or more live-in aides.

**Elderly Person**

A person 62 years of age or older.

**Eligibility Income**

This is Annual Income amount which is compared to USHUD approved Income Limits to determine if an applicant family is eligible for admission to the housing program.

**Extremely Low Income (HUD Federal Register Vol. 79 #122 dated 6-25-14)**

Families with income below the higher of either the Federal poverty level or 30% of area median income (AMI).

**Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR 5.403)**

Family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person who may be an elderly or displaced person, or a person with disabilities, near-elderly person, or any other single person; or
- A group of persons residing together, and such group includes, but is not limited:
  - A family with or without children (a child who is temporarily away from the home due to placement in foster care is considered a member of the family);
  - An elderly family;
  - A near-elderly family;
  - A disabled family;
  - A displaced family;
  - The remaining member of a tenant family; or
  - A group of persons who reside together and are related by blood or marriage, or who exhibit a stable familial relationship. PHCD will accept documentation proving that adult, domestic partners have a stable relationship (e.g., they have lived together for at least one (1) year).

**Family Income**

Family Income means the Annual Income derived from all sources of the family members expected to reside in the dwelling unit and upon which rent is to be based.

**Full-Time Student**

A person registered for and carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

**Fraud**

Deceit or trickery deliberately practiced to gain some advantage dishonestly. Fraud is an intentional deception and is not committed accidentally.

**Gender Identity (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR 5.100)**

Gender identity means actual or perceived gender-related characteristics.

**Good Cause**

With respect to refusal of a housing offer, 'good cause' shall mean that an applicant or resident who are offered a unit can demonstrate through objective evidence that a move into the unit offered would result in a hardship related to the ability of the applicant or a member of the applicant's family to retain his or her employment or retain particular day care or medical services uniquely suited to the affected individual's needs. In addition, a hardship may relate to the person's inability to conveniently use the facility because of his or her disability and a lack of the necessary accessibility features. Additional examples of good cause are included in this policy.

**Grievance or Complaint**

Any dispute with respect to the Agency's action or failure to act in accordance with lease requirements, and/or federal regulations which may adversely affect the tenant's rights, duties, welfare, or housing status.

**Head of Household**

The family member who is 18 years or older and held responsible and accountable for the family, normally considered to be the official tenant of record or the lessee.

**Hearing**

An informal proceeding at which a resident's grievance or complaint relating to PHCD's adverse action or decision, is heard in order to insure that the complainant's rights were not violated

**Homeless Family**

Category 1: An individual or family who ***lacks a fixed, regular, and adequate night time residence***, meaning:

- a. An individual or family with a primary night-time residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- b. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); **or**
- c. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

**Homeownership Opportunities**

After October 28, 1998, any homeownership opportunities shall mean any homeownership units developed, purchased, or redeveloped by Miami-Dade County solely or as a joint venture with any other entity.

**Immediate Family Member (24 CFR 5.2003)**

A spouse, parent, brother, sister, child, an individual to whom that person stands in loco parentis, or any other person living in the household and related by blood or marriage. Additionally, the term "immediate family member" shall include a domestic partner.

**Income Eligibility for Admission**

At least 40% of families admitted to the Public Housing program in each fiscal year must have incomes that do not exceed extremely low income levels. In each fiscal year, PHCD may reduce the targeted public housing admissions to the extent that PHCD provides tenant-based Section

8 assistance above the targeted 75% to families that do not exceed extremely low income levels. The public housing target, however, may not be reduced below 30% of admissions.

**Income Limits**

Income limits are those published by USHUD for admission of Low-Income and Very-Low-Income families to federally subsidized housing developments.

**Interim Adjustments or Re-determination of Rents**

Changes in rent between admission and subsequent annual re-examinations due to a change in family composition or income.

**Live-in Aide**

A person 18 years of age or older who resides with one (1) or more elderly persons, or near-elderly persons, or persons with disabilities who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.
- The live-in aide's income is not counted when determining family income.

**Local Preference**

Any preference, to the extent authorized by law, the Agency may establish for use in selecting among applicants that respond to local housing needs and priorities.

**Lower Income Family**

A family whose Annual Income does not exceed eighty percent (80%) of the median family income for the area, as determined by USHUD with adjustments for smaller and larger families.

**Medical Expenses**

Those medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not reimbursed by insurance or other sources.

**Minimum Rent**

Statutory requirement that each family assisted under Public Housing programs pay a monthly minimum rent or Total Tenant Payment (TTP) of \$50.00, subject to hardship exemption waiver, if applicable.

**Monthly Income**

One-twelfth of Annual Income

**Monthly Adjusted Income**

One-twelfth of Adjusted Annual Income

**Near-Elderly Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR 5.403)**

A family whose head of household, co-head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two (2) or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

**Net Family Assets**

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in USHUD homeownership programs. The value of any business or family assets disposed of by an applicant or tenant for less than fair market value during the two years preceding the date of application for the program or reexamination shall be included in the determination of Net Family Assets.

**New Affordable Desegregative Rental Housing**

After October 28, 1998, any affordable desegregative rental housing developments developed, purchased or redeveloped by Miami-Dade County solely or as a joint venture with any other entity. This includes the redevelopment of public housing.

**Non-Black**

All individuals who are not 'Black' as defined above including, but not limited to, Caucasians and Caucasians of Hispanic ethnicity, American Indians and Asians.

**Non-Elderly Family**

Two (2) or more persons who are not elderly but live together and are related by blood, or marriage, or operation of law, or give evidence of a stable relationship which has lasted over a period of at least one year. All Family Income and resources are available to meet the family's needs.

**Non-Violent Criminal Activity**

Any criminal activity that is not a Violent Criminal Activity or a Drug-related Criminal Activity, as defined herewith, but that is such that it may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. Non-violent criminal activities include but are not limited to fraud, bribery, vandalism, burglary, larceny, robbery, etc.

**Offer**

The term 'offer' is used in the context of project-based assistance and means an offer of a unit that is vacant, appropriate for the household in size and type, and meets applicable housing quality standards.

**Participating Privately Owned Assisted Housing**

Housing receiving federal assistance under one of the following statutory provisions for which the owner has agreed, upon invitation from USHUD, to participate in the activities of the Housing Center:

- Section 221(d)(3) of the National Housing Act;
- Section 101 of the Housing and Urban Development Act of 1965;
- Section 236 of the National Housing Act;
- Section 202 of the National Housing Act;
- Section 811 of the Cranston-Gonzalez National Affordable Housing Act; or
- Section 8 of the United States Housing Act

**Person with Disabilities**

Under federal discrimination law, an individual is disabled if he/she has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. This definition does not include any individual who is a drug addict and is currently using illegal drugs, or an alcoholic, who poses a direct threat to the health, safety and right to peaceful enjoyment of the premises by other residents.

**Reasonable Accommodation**

A reasonable accommodation is a change, modification, alteration, or adaptation in a policy, procedure, practice, program, facility or unit that provides a person with a disability the opportunity to participate in, or benefit from, a program (housing or non-housing), service or activity.

**Re-examination/Re-certification Date**

The date on which any rent change is effective as required by the annual re-examination of eligibility for continued occupancy.

**Sexual Assault**

The threat of oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, without consent.

**Sexual Battery**

The actual oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, without consent.

**Sexual Orientation (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR 5.100)**

Sexual orientation means homosexuality, heterosexuality or bisexuality. PHAs are prohibited from inquiring about an applicant's or participant's sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available. This does not prohibit an individual from voluntarily self-identifying sexual orientation or gender identity.

**Single Person**

A person living alone or intending to live alone and who does not qualify as an Elderly Family, Disabled Family, Displaced Person, or as the remaining member of a tenant family.

**Special Needs Households**

A household consisting of a Family that is considered to be Homeless, a survivor of Domestic Violence, a Person with Disability, or Youth Aging out of Foster Care. (Rule Chapter 67-48, Florida Administrative Code).

**Stalking (24 CFR 5.2003 and Florida Statutes)**

The federal regulations defines "stalking" as following, pursuing, or repeatedly committing acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate; and in the course of, or as a result of, such acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or substantial emotional harm to that person, a member of the immediate family of that person, or the spouse or intimate partner of that person.

In the Florida, the law defines "stalking" as the willful malicious, and repeated following, harassing, or cyber stalking of another person, and/or the making of a credible threat with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent.

**Tenant Error**

Occurs when the tenant, by action or inaction, breaches a lease, regulation or program requirement, because of a misunderstanding of rules. Tenant errors are considered unintentional program violations as compared to fraud (see definition).

**Tenant Rent**

The amount payable monthly by the Family as rent to the Public Housing Agency. Where all utilities (except telephone) and other essential housing services are supplied by the Agency, Tenant Rent equals the Total Tenant Payment (TTP). Where some or all utilities (except telephone) and other essential housing services are not supplied by the Agency and the cost thereof is not included in the amount paid as rent to the Agency, Tenant Rent equals Total Tenant Payment less the Utility Allowance.

**Total Tenant Payment**

Total Tenant Payment for any dwelling unit shall be the highest of the following, rounded to the nearest dollar:

- 30% of Monthly Adjusted Income;
- 10% of Monthly Income;
- The monthly portion of a Family's Welfare Assistance from a public agency specifically designated by such agency to meet the Family's housing costs; or
- The PHCD statutory minimum rent which is currently \$50, subject to hardship exemption waiver, if applicable.

**Uniform Federal Accessibility Standards (UFAS) Unit**

A dwelling unit that is designed, constructed, altered or adapted to comply with Uniform Federal Accessibility Standards (UFAS) and is located in accessible route.

**Units with Accessible Features**

A unit which has been altered in a manner that has some accessible features that assists persons with disabilities (see also UFAS unit).

**Utility Allowance**

If the cost of utilities (except telephone) for an assisted unit is not included in the Tenant Rent but is the responsibility of the family occupying the unit, the Utility Allowance is the amount equal to the estimate made of the monthly costs of a reasonable consumption of such utilities for the unit, consistent with the requirements of a safe, sanitary, and healthful living environment based on an annual review of utility rates. The estimate made must be approved by USHUD. The resident may also request relief from excess utility consumption (see Section 4-1 (B) (iv) regarding the excess consumption policy).

**Utility Reimbursement**

The amount, if applicable, by which the utility allowance for the unit exceeds the Total Tenant Payment for the Family occupying the unit.

**Very Low Income Family**

A family whose Annual Income does not exceed fifty percent (50%) of the median family income for the area, as determined by USHUD, with adjustments for smaller and larger families.

**Violent Criminal Activity**

Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonable likely to cause, serious bodily injury or property damage.

**Waiting List**

The list of applicants who are waiting to be verified eligible for admittance to housing programs administered by PHCD and offered the benefit as it becomes available.