

PUBLIC HOUSING and COMMUNITY DEVELOPMENT

DEFINITIONS

APPENDIX I

OF THE

ADMISSIONS AND CONTINUED OCCUPANCY POLICY

Effective:

BCC Adopted:
Revised:

APPENDIX I

Definitions

Admission 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.

Actual and Imminent Threat (24 CFR §5.2003)

A physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

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 (24 CFR §5.2003)

With respect to an individual, means a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or any individual, tenant, or 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 (24 CFR §5.2003)

To divide a lease as a matter of law, subject to permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

Child/Minor

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

Complainant (HUD Federal Register Vol. 81 #25 and 24 CFR §966.53)

Any resident whose grievance is presented to PHCD or at the development management office.

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.

Conviction

A formal declaration that a person has been found guilty of a criminal offense by a verdict of a jury or a judge in a court of law.

Covered Housing Program (24 CFR §5.2003)

The following HUD programs must afford VAWA Protections:

- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Housing Opportunities for Persons With AIDS (HOPWA)
- HOME Investment Partnerships (HOME)
- Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (including the Emergency Solutions Grants, the Continuum of Care, and the Rural Housing Stability Assistance)
- Multifamily rental housing under section 221(d)(3) of the National Housing Act with a below-market interest rate (BMIR) pursuant to section 221(d)(5)
- Multifamily rental housing under section 236 of the National Housing Act
- Public Housing
- Section 8 Housing Choice Voucher
- Section 8 Project-Based Vouchers
- Section 8 Moderate Rehabilitation Single Room Occupancy
- The Housing Trust Fund

Covered Housing Provider (24 CFR §5.2003)

The individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes public housing agencies, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

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 only if they are being tried as adults for certain criminal offenses. 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

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- 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 or ethnic origin, color, sex, religion, age, disability, familial status, marital status, status as a victim of domestic violence, dating violence, sexual assault or stalking, ancestry, actual or perceived sexual orientation, gender identity or gender expression, pregnancy or source of income.

Displaced Family (24 CFR §5.403)

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. PHCD also considers in this definition displacements due to domestic violence.

Displacement Due to Governmental Action

Activity carried on by an agency of the United States or by any State or local governmental body or in connection with code enforcement or a public improvement or development program.

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 or intimate partner 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 or intimate partner, 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 term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

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

Due Process

Shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguard are present by state:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
- Opportunity for the resident to examine all relevant documents, records, and regulations of PHCD prior to the trial or grievance hearing for the purpose of preparing a defense;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by PHCD including the right to confront and cross-examine witnesses or equitable defense which the tenant may have;
- Opportunity to have their case heard before an impartial Hearing Officer or Hearing Panel; and
- The right to a written determination based on evidence presented at grievance hearing.

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.

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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 and Vol. 81 #45 dated 3-8-16)

A very low-income family whose annual income does not exceed the higher of:

- The poverty guidelines established by the U.S. Department of Health and Human Services applicable to the family of the size involved; or
- Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Ethnicity Categories

There are two ethnicity categories:

- a) Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic” or “Latino.”
- b) Not Hispanic or Latino. A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

Family (HUD Equal Access Rule, PIH Notice 2014-20, and 24 CFR §5.403 and Miami-Dade County Polices)

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

- a) 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
- b) 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; and
 - The remaining member of a tenant family.

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 Expression

All of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions. Social or cultural norms can vary widely and some characteristics that may be accepted as masculine, feminine or neutral in one culture may not be assessed similarly in another.

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 unit 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 resident to conveniently use the facility. Examples of good cause are included in Chapter III of this policy).

With respect to not attending a scheduled appointment or not providing required documentation, “good cause” shall mean that an applicant or resident can demonstrate through objective evidence that circumstances beyond the applicant/resident’s control resulted in non-compliance. Examples may include illness, hospitalization, or emergency incidents.

Grievance or Complaint

Shall mean any dispute which a resident may have with respect to a PHCD action or failure to act in keeping with the provisions of the Public Housing Dwelling Lease or other PHCD regulations. Such action or failure to act must adversely affect the rights, duties, welfare, or status of the resident bringing such dispute.

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

A proceeding at which a resident's grievance 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 they 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;
- d) An individual or family transitioning out of permanent supportive housing.

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.

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.

Low 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-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 they have 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.

Racial Categories

There are five racial categories:

- a) American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- b) Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam
- c) Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” can be used in addition to “Black” or “African American.”
- d) Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- e) White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.

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 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.

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

A 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 Fraud definition above).

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.

Unauthorized Occupants/Boarders

A person who is staying in the dwelling unit, but is not listed on the lease, Article III, or approved by the Landlord to dwell in the unit in excess to 14 days.

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 an 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), but is not an 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.