

Public Housing Basics



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Resident Academy

Basics of Public Housing

- **Number of Units and Characteristics of Families**
 - About 1.2 million units
- **How Program Works: Subsidy Mechanism**
 - Subsidies (Operating fund and Capital fund) are given to the PHA subject to an Annual Contributions Contract (ACC) between HUD and a PHA.
- **Ownership**
 - Public Housing Authorities (PHAs) own most Public Housing.
- **Who's Involved?**
 - HUD (both Headquarters in Washington, D.C. and the local office)
 - For a list of the list of contacts for the Local HUD offices, go to <http://portal.hud.gov/hudportal/HUD?src=/localoffices>
 - PHA has a Board of Commissioners, with a tenant commissioner. 42 U.S.C. § 1437(b); 24 C.F.R. §§ 964.400-964.430.
 - PHA consults with a Resident Advisory Board (RAB) to develop annual and five-year plans. 42 U.S.C.A. § 1437c-1; 24 C.F.R. Part 903.
 - Resident Councils (RC) if duly elected must be recognized by the PHA. 24 C.F.R. §§ 964.105(a), 964.130(b) and 964.135(d).
- **Key Regulatory Features**
 - Federal statute, regulations and forms.
 - Statute: 42 U.S.C.A. §§ 1437 to 1437e, 1437g to 1437z, 1437z-2 to 1437z-6, 1437aaa-2 to 1437aaa-6.
 - Regulations: 24 C.F.R. Part 5, and 900 *et seq.* (especially Parts 960 and 966).
 - Public Housing Occupancy Guidebook (June 2003), available at <http://www.hud.gov/offices/pih/programs/ph/rhiip/phguidebook.cfm>.
 - Annual Contribution Contract, HUD Form 53010 D, E, H, I, etc. (contract between HUD and PHA), available <http://www.hud.gov/offices/adm/hudclips/>
 - Locally developed rules, policies and contracts.
 - State statute creates and also controls the PHA.
 - PHA Annual and Five Year Plan, 24 C.F.R. Part 903; form HUD 50075; HUD, HUD PHA Plan Desk Guide
 - Admission and Continued Occupancy Plan (ACOP)

- Tenant lease and grievance procedure, 24 C.F.R. Part 966.
- **Finding Out Where this Housing is Located**
 - To find a PHA, <http://www.hud.gov/offices/pih/systems/pic/haprofiles/>
 - Ask your PHA where the public housing developments and units are located.
- **Tips for Determining What Kind of Housing is Involved**
 - Owned and managed by the PHA, the lease is a public housing lease
 - Other facts may help to decide what kind of housing it is, age of the building, there is a grievance procedure, PHA recertifies tenant income annually, signs posted at the development.

Major Applicant and Tenant Issues

- **ADMISSIONS**
 - **Waiting list:**
 - May be site-based or a central waiting list and/or combined with voucher waiting list. 42 U.S.C.A. § 1437d(r); 24 C.F.R. § 903.7(b)(2).
 - PHAs typically advertise when the waiting list is open and adopt a process to get on the on the list.
 - **Eligibility:**
 - Income: Low income (80% of Area Median Income (AMI)).
 - Targeting: at least 40% of all new admissions must be families with Extremely Low Income (ELI) (30% of AMI). 42 U.S.C.A. § 1437n(a).
 - The AMI for every jurisdiction is available at <http://huduser.org/datasets/il.html>.
 - Immigration status: A family must have one member of the household who is a citizen or who has eligible immigration status under one of the categories set forth in 42 U.S.C.A. § 1436a(a). If any members of the household are not citizens or lack eligible immigration status, the the family may have to pay a higher rent. 24 C.F.R. §§ 5.500–5.528. See also HUD Guidebook 7465.7G for an explanation of how prorationing works for public housing residents.
 - **Preferences:**

PHAs may adopt local preferences for applicants, such as, preferences for families whose heads are working, residency preferences, and preferences for victims of domestic violence and families who are homeless or threatened with homelessness. 42 U.S.C.A. § 1437d(c)(4); 24 C.F.R. § 960.206.
 - **Screening:**
 - PHAs must screen for certain types of criminal activity and may screen for other kinds of criminal activity. 24 C.F.R. § 960.204 (required for eviction within 3 years from federally assisted housing, methamphetamine

and life time registered sex offender), 24 C.F.R. §§ 960.203(c)(3) and 960.204(b).

- PHAs may screen for poor tenant history and poor credit history.
- **Notification and opportunity to contest**
 - Applicants must be notified and provided an informal hearing. 42 U.S.C.A. § 1437d(c)(3); 24 C.F.R. § 960.208.
 - When adverse information is received, the PHA must consider the time, nature, extent and seriousness of the offense. PHA may also consider rehabilitation of an applicant. 24 C.F.R. §§ 960.203(a) and (d).
- **Admission policy** must be available locally; admission issues are addressed in the PHA Plan (42 U.S.C.A. § 1437c-1(d)(3)) and the ACOP.
- **RENTS**
 - **Income-based rents**
 - Public Housing residents usually pay 30% of adjusted income for rent. 42 U.S.C.A. § 1437a.
 - **Annual Income and Exclusions**

Annual income includes all income that the family anticipates that it will receive in the coming year. There are many exclusions, deductions and disallowances from anticipated income. Some of these include the Earned Income Disregard/Disallowance (EID), income from full-time students who are not head of household, income for foster care, income of live-in aides, deferred lump sum additions to family income due to the delayed start of SSI or social security payments, etc. 24 C.F.R. § 5.609; *see also* 42 U.S.C.A. § 1437a(d) (Earned Income Disregard).
 - **Adjusted Income after Deductions**
 - The standard mandatory deductions include:
\$480 for each dependent,
\$400 for each elderly or disabled family,
For each elderly or disabled family, unreimbursed medical and reasonable attendant care or auxiliary apparatus that exceeds 3% of annual income,
Child care expenses (for children under age 13) that allow a family member to work, and any other locally adopted deductions. 42 U.S.C.A. § 1437a(a)(5); 24 C.F.R. § 5.611.
 - **Minimum Rent and hardship exemptions**

A PHA may set a minimum rent of up to \$50 and tenant may request a hardship exemption. 42 U.S.C.A. § 1437a(a)(3); 24 C.F.R. § 5.630.
 - **Utility Allowance**

For tenant-paid utilities, PHA sets a “reasonable” amount as the allowance, which is credited against tenant share of the rent. 24 C.F.R. § 5.603 (definition of utility allowance).

- **Other Rents (Flat Rents)**

PHAs are required to adopt a flat rent based upon the market rent for the unit. A family paying a flat rent may request a financial hardship to switch to an income-based rent. 42 U.S.C.A. § 1437a(2); 24 C.F.R. § 960.253(f).
- **Recertification**
 - Recertification at least annually and every 3 years for flat rent tenants.
 - Interim on tenant request.
 - Tenant must report changes in family composition and increases in income.
- **Ability to challenge rent level**
 - Public Housing grievance procedures.
- **GRIEVANCE PROCEDURES**
 - Public housing residents may request a grievance hearing to dispute PHA action or inaction involving tenant lease or PHA policies. Eviction actions involving criminal activity may be exempt from the grievance process. 42 U.S.C.A. § 1437d(k); 24 C.F.R. §§ 966.51–966.57.
- **EVICCTIONS**
 - **Notice: length and content**
 - 14 days for nonpayment of rent.
 - 30 days or a shorter state law period for all other situations.
 - Notice must specify the grounds, inform resident of the right to examine PHA documents, of the right to a grievance hearing or an explanation of why it is not available, etc. 42 U.S.C.A. § 1437d(l); 24 C.F.R. § 966.4(l)(3).
 - **Good cause**
 - Required for any termination, both at end of term and midterm.
 - **Good cause defined as:**
 - Serious or repeated violation of material terms, including nonpayment of rent and failure to comply with household obligations under the lease.
 - Drug-related criminal activity that occurs *on or off* the premises.
 - Criminal activity that threatens health, safety or right to peaceful enjoyment of other residents or staff.
 - Other good cause.
 - 42 U.S.C.A. § 1437d(l); 24 C.F.R. § 966.4(l).

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