



U.S. Department of Housing and Urban Development  
PUBLIC AND INDIAN HOUSING  
FAIR HOUSING AND EQUAL OPPORTUNITY  
HOUSING

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To: PHAs, IHAs, Regional Administrators, Directors, Offices of Public Housing, Housing and FHEO; Field Office Managers; Directors, Housing Management Divisions; (Chiefs, Assisted Housing Management Branches, Loan Management Branches); Directors, Office of Indian Programs; Directors of FHEO Program Operations and Field Office Divisions; Contract Administrators, Directors of State Agencies, Regional Directors of FmHA, Owners and Management Agents and Resident Managers of Projects covered by Handbook 4350.3

**Notice**      PIH 90-33 (PHA)  
Issued: July 5, 1990  
Expires: July 31, 1991

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Subject: Eligibility of and Admission to Public and Assisted Housing by Single Pregnant Applicants and others as defined under "Familial Status" of the Fair Housing Amendments Act of 1988

1. Purpose. This Notice transmits clarification and guidance regarding the eligibility of any person who is pregnant or is in the process of securing legal custody of children under the age of 18 years.

The Notice is applicable to Public Housing Agencies (PHAs) including Indian Housing Authorities (IHAs) which administer the following programs: PHA owned rental public housing (including Indian rental housing); Sections 23 and 10(c) leased housing; Section 23 Housing Assistance Payments Program; Turnkey III; Mutual Help; Section 8 Certificates and Vouchers and Section 8 Moderate Rehabilitation, and private owners of projects assisted under the following programs: Section 8 (New Construction, Substantial Rehabilitation, Loan Management Set-aside, Property Disposition Set-aside, FmHA, State Agency Set-aside), Section 202 for the Elderly or Handicapped, Section 236, Rent Supplement, Rental Assistance Payments, and Section 221(d)(3) BMIR.

2. Background. The Fair Housing Amendments Act of 1988 amended Title VIII of the Civil Rights Act of 1968 to prohibit discrimination in housing on the basis of handicap and familial status. The Act provides that "the protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years." (42 U.S.C. Section 3602)
3. Discussion. The Department of Housing and Urban Development has determined that single individuals, with no other children, who are pregnant or in the process of securing legal custody of any individual under the age of 18 years, constitute families under Section 3(a) of the United States Housing Act of 1937 (Housing Act) and are not subject to the limitations on admission of single persons contained in Section 3(b)(3) of that Act.

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PPF : Distribution: W-3-1, W-2(H), W-3(H), R-1, R-2, R-3, R-3-1(PIH, FHEO, H), R-3-2, R-3-3, R-6, R-6-1, R-6-2, R-7, R-7-1, R-7-2, R-9, R-9-1, 138-2, 138-7

Their status is the same as a family consisting of two persons; that is, they are not subject to the statutory limitation on admission of single, non-elderly persons. Therefore, any applicants in these categories must be allowed to apply for public and assisted housing and, if otherwise eligible and determined suitable for tenancy, must be admitted in accordance with the PHA/owner's policies and procedures.

Each PHA/owner should affirmatively seek to identify whether, since March 12, 1989, (the effective date of the Fair Housing Amendments of 1988) any single pregnant woman was denied an opportunity to apply or was determined to be ineligible based on a determination that she was not a family. In those instances in which a PHA/owner has evidence of such individuals, the PHA/owner should provide the woman with this Notice and allow her to reapply. (Evidence can be obtained from PHA/owner documents, such as prerecords associated with the application process including records of inquiries from interested individuals.) For the purpose of selecting applicants from the waiting list, the applicant must be placed on the waiting list at the point where she would have been if originally determined to be eligible. This outcome assumes, of course, that at the time of reapplication, the applicant still qualifies as a family either as a single pregnant woman or as a mother living with a child.

4. Occupancy Procedures. To be admitted, a single pregnant woman must have an income at or below the income limit for one-person. In establishing the appropriate space standards, the PHA/owner must consider the size of the household with the unborn child included; however, the single pregnant woman would not be entitled to the benefit of the \$480.00 dependent allowance until after the birth of the child. If the pregnancy is terminated prior to an offer being made, the PHA/owner must deny eligibility since the individual no longer constitutes a family as defined in the Act. If the pregnancy is terminated after admission, the individual constitutes the remaining member of a tenant family and could continue in the program under the existing lease.

Persons in the process of adopting an individual under 18 should be treated identically to a single pregnant woman but persons in the process of securing legal custody through other means must provide evidence of a reasonable likelihood of success to be admitted to occupancy prior to obtaining custody. This determination of "reasonable likelihood of success" should be made at the time an offer of a unit is to be made to an individual. If at that time it is determined that there is not a reasonable likelihood of success, then that individual nonetheless shall be allowed to retain his or her place on the waiting list, with any preference for which he/she remains eligible and with his or her original date and time of application, until custody is secured at which time the individual will be offered an appropriate unit in accordance with his or her position on the waiting list.

5. Verification of Pregnancy. In those instances where an immediate determination of pregnancy cannot be determined, PHA/owners may wish to require the applicant to obtain a physician's certificate.
6. Changes to Directives. We will be revising the appropriate regulations and handbooks within the next several months to reflect this new policy.
7. References: 24 CFR 100.50, 812.2 and 4350.3, Paragraph 2-1

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