

CHAPTER 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

INTRODUCTION:

This chapter defines both HUD and the NBHA's criteria for admission and/or denial of admission to the program. The Policy of this NBHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The NBHA staff will review all information provided by the family carefully and without regard to factors other than those referenced in this chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the NBHA pertaining to their eligibility.

A. FACTORS AFFECTING ADMISSION: [982.201(b)]

The NBHA accepts applications only from families whose head or spouse is at least eighteen years of age, or an emancipated minor under state law.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the NBHA. Eligibility factors will be verified before the family is issued a voucher.

HUD Factors:

The HUD eligibility criteria are:

- An applicant must be a "family" at admission, as defined in Section B, "Definition of Family".
- An applicant family must be within the appropriate income limits.
- An applicant family must furnish Social Security numbers for all family members.
- An applicant family must furnish declaration of citizenship or eligible immigrant status and verification.
- The NBHA will permanently deny admission to ~~public housing~~ persons convicted of manufacturing or producing methamphetamine in violation of any federal or state law.
- The NBHA will permanently deny admission to sex offenders who are subject to a registration requirement under a sex offender registration program in accordance with the Sexual Offender Policy.
- An applicant family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious

violation of the lease within the past five years. (Except as referenced in chapter 15 of this Administrative Plan).

- At least one member of the applicant family must be either a U. S. citizen or have eligible immigration status before the NBHA may provide any financial assistance.
- The applicant family must not be in debt to any Authority. The NBHA may allow for the family to participate in the Housing Choice Voucher Program if they are in good standing regarding any current payment agreement made with any housing authorities for a previous debt incurred.

NBHA Factors:

The NBHA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

- The applicant family must not have violated any family obligation during a previous participation in a federally assisted housing program. The NBHA may make an exception, if the family member who violated the family obligation is not a current member of the household NBHA may request the family to provide verifiable documentation.
- The reasons for denial of admission are addressed in the “Denial or Termination of Assistance” (chapter 15 of this Administrative Plan). These reasons for denial constitute additional admission criteria.
- The NBHA will deny participation in the program to applicants where the NBHA determines there is reasonable cause to believe that any family member is illegally using a controlled substance or engages in drug-related or other criminal activity. The same will apply if it is determined that any family member abuses alcohol in a way that may interfere with the health safety or peaceful enjoyment of the premises by other residents. This includes cases where the NBHA determines that there is a pattern of illegal use of controlled substances or a pattern of alcohol abuse.
- An applicant family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the NBHA, including HUD-9886 Form.
- If any applicant family deliberately misrepresents the information on which eligibility or tenant rent is established, the NBHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum)
- Reasons for denial of admission are addressed in the “Denial or Termination of Assistance”, Chapter of this Administrative Plan. These reasons for denial constitute additional admission criteria.

Eligibility factors will be verified before the family is admitted to the program.

B. **FAMILY COMPOSITION:** [24 CFR 982.201(c)]

Definition of Family: (at application)

The applicant(s) must qualify as a family. A family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely on the basis that blood, marriage or operation of law does not relate them.

For occupancy standards purposes, the applicant may claim a spousal relationship. (See “Subsidy Standards”, Chapter 5)

The NBHA defines a family of persons as two or more persons who intend to share residency, whose income and resources are available to meet the family’s needs, and who will live together in NBHA housing, elderly, disabled, and displaced families are defined by HUD in CFR 5.403.

Families who are otherwise eligible for HUD programs may not be excluded because one or more members of the family may be LGBT or perceived to be LGBT.

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

- a. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family).
- b. An elderly family;
- c. A near-elderly family;
- d. A disabled family;
- e. A displaced family; and
- f. The remaining member of a tenant family

The temporary absence of a child from the home due to placement in foster care shall be considered in determining the family composition and family size.

Head of Household:

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under state/local law. The head of household must be the age of 18 or older.

Spouse of Head:

Spouse means the husband or wife of the head.

For proper application of the non-citizens rule, the definition of “spouse” is: the marriage partner who, in order to dissolve the relationship would have to be divorced. It includes the partner in a common law marriage. The term “spouse” does not apply to boyfriends, girlfriends, partner/significant others, or co-heads.

Co-Head:

Is defined as, an individual in the household who is equally responsible for the lease with the head of household. A head of household may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Live-in-Aide:

A household may include a live-in-aide, provided that such live-in-aide:

- Is determined by the NBHA to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with disabilities;
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

Relatives are not automatically excluded from being live-in-aides, but they must meet all of the elements in the live-in-aides as stated above.

A live-in-aide is not considered to be an assisted family member and has no rights or benefits under the program:

- Income of the live-in-aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in-aides are not subject to Non-Citizen Rule requirements.
- Live-in-aides may not be considered as a remaining member of the tenant family.

A live-in-aide may only reside in the unit with the approval of the NBHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in-aide is needed for the care of the family member who is elderly, near-elderly (50-61 years of age), or disabled. A specific live-in-aide may only reside in the unit with the approval of the NBHA. The NBHA shall make the live-in-aide subject to the agency’s normal screening criteria.

The NBHA will approve a live-in-aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in-aide for reasonable accommodation will be in accordance with CFR24; Part 8 and the Reasonable Accommodation Policy.

Verification must be provided to document that there is the need for live-in assistance rather than a need that can be met by daily help that would not need to be present during the nighttime hours. [24 CFR 982.316] At any time, the NBHA

will refuse to approve a particular person as a live-in-aide or may withdraw such approval if:

- The person commits fraud bribery, or any other corrupt or criminal act in Connecticut with any federal housing program.
- The person commits drug-related criminal activity or violent criminal activity, or
- The person currently owes rent or other amounts to the NBHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

When the agency takes such action against the live-in-aide, is not entitled to the grievance hearing process of the agency.

Split Households prior to voucher Issuance:

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation and both families claim the same placement on the waiting list, if there is no court determination, the NBHA will make the decision taking into consideration the following factors:

- Which family member applied as head of household
- Which family unit retains the children or any disabled or elderly members
- Recommendations from social service agencies or qualified professionals, such as Department of Children and Families.
- Role of domestic violence in the split

Documentation of these factors are the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the NBHA.

Cases of Domestic Violence will be handled in accordance with the NBHA Domestic Violence Policy.

Multiply Families in the Same Household:

When families consisting of two families living together, (such as a mother and father, and a daughter with her own husband or children) apply as a family unit, then they will be treated as a family unit.

Joint Custody of Children:

Children who are subject to a joint custody agreement, but live with one parent at least 51% of the time will be considered members of that household. "51% of the time" is defined as 183 days of the year and do not have to run consecutively.

The NBHA will require a copy of the court ordered custody agreement of families who claim joint custody or temporary stay.

When both parents are on the waiting lists and both share equal custody of the child/children, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

C. INCOME LIMITATIONS: [24 CFR 982.201(b), 982.353]

To be eligible for assistance, an applicant must:

- Have an annual income at the time of admission that does not exceed the low-income limits for occupancy established by HUD.

To be income eligible, the applicant must be a family in any of the following categories:

- A very low-income family.
- A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act Program within 120 days of voucher issuance. Programs including any housing federally assisted under the 1937 Housing Act.
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR Part 511, or a low-income family displaced by any government activity.
- A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- A low-income non-purchase family residing in a project, subject to a home-ownership program, under 24 CFR 248.173.
- A low-income family or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165.
- A low-income family that qualifies for Housing Choice Voucher assistance as a non-purchasing family residing in a project that is subject to a resident homeownership program.

Families whose Annual Income exceeds the applicable income limit will be denied admission.

Portability:

For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

D. MANDATORY SOCIAL SECURITY NUMBERS: [24 CFR 5.216, 5.218)

Applicants are required to provide verification of Social Security numbers for all family members age one and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Applicants who have not been issued a Social Security number must sign a certification that they have never been issued a Social Security Number.

Applicants who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within sixty days. Elderly persons must provide verification within 120 days.

Failure to furnish verification of social security or sign appropriate certification is grounds for denial or termination of assistance.

Participants must disclose their Social Security numbers if they obtain one at a later date.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS: [24 CFR Part 5, Subpart E]

In order to receive assistance, a family member must be an U. S. Citizen or eligible immigrant.

Individuals, who are neither, may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

Citizenship/Eligible Immigration Requirement:

The citizenship or immigration status of each member of the family is considered individually before the family's status is defined.

Mixed Families:

A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

No Eligible Members:

Applicant families that include no family members who are citizens or eligible immigrant members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-Citizen Students:

As defined by HUD's Non-Citizen Regulations, non-citizen students are not eligible for assistance. Appeals regarding disputes of citizenship/eligible immigration status are the only type for which the applicant is entitled to a hearing exactly like those provided for participants.

Verification of Status before Admission:

The NBHA will not provide assistance to families prior to the verification of eligibility of the individual or at least one member of the family pursuant to this section.

F. **OTHER – CRITERIA FOR ADMISSIONS:** [24 CFR 982.552(b)]

- A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past five-years.
- A family will be denied admission to the program if any member of the family failed to sign and submit consent forms for obtaining information required by the NBHA, including for HUD-9886.

The NBHA will apply the following criteria, in addition to the HUD eligibility criteria as grounds for denial of admission to the program.

- The family must not have violated any family obligation during a previous participation in the Section 8 Program for five-years prior to final eligibility determination, (if the violation was failure to give the NBHA notice before moving the NBHA will consider the circumstances under which the failure occurred, such as fleeing a domestic violence, before enforcing this reason for denial of admissions).
- The NBHA will make an exception if the family member who violated the family obligation is not a current member of the household on the application.
- The family must pay any outstanding debt owed the NBHA or any PHA as a result of prior participation in any federal housing program prior to admission and would have to enter into a repayment agreement and keep it current while on the waiting list.
- The NBHA will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section on screening and terminations policy in the “Denial or Termination of Assistance” chapter.
- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established the NBHA may deny assistance and may refer the family file record to the proper authorities for appropriate disposition (See program Integrity Addendum).

G. **TENANT SCREENING:** [24 CFR 307.7]

The NBHA will not screen family behavior or suitability for tenancy. The NBHA will not be liable or responsible to the owner or other persons for the family’s behavior or the family’s conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner’s unit. At or before NBHA approval of the tenancy, the NBHA will inform

the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as: [24 CFR 982]

- Payment of rent and utility bills
- Caring for unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy

The same types of information will be supplied to all owners.

The NBHA will advise families how to file a complaint if they have been discriminated against by owner. The NBHA will advise the family to make a Fair Housing complaint. The NBHA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

H. **CHANGE IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF CONTRACT:**

Changes that occur during the period between issuance of a voucher and lease-up may affect the family's eligibility or share of the rental payment.

I. **INELIGIBLE FAMILIES:**

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to non-citizen status. See "Complaints and Appeals", Chapter for additional information about reviews and hearings.

J. **STUDENTS' ELIGIBILITY FOR VOUCHERS:**

1. **OVERVIEW:**

A. **STUDENT ELIGIBILITY: PARENTS' INCOME CONSIDERATION**

Federal law and regulations limit the eligibility of an adult student under age 24 for Section 8 Housing Choice Vouchers or Project-Based Voucher (PBV) assistance, based on the financial situation of the student's parent(s). The restrictions apply to a student at an institution of higher learning (that is, beyond high school) who is living on his or her own in a Section 8-Assisted unit or applying for Section 8 assistance. The restrictions do not apply to students living with their parents who are themselves applying to receive Section 8 Assistance.

In general, a student under age 24 may be eligible for Section 8 assistance if the student is:

1. Financially independent from his or her parents; or
2. A veteran of the U. S. military; or
3. Married, or
4. Has dependent children

B: STUDENT FINANCIAL AID:

Student financial assistance (scholarships or grants, but not loans) that exceeds actual tuition costs will be included in annual income when determining the student's eligibility for Section 8 assistance. The amount also will be considered for rent calculation purposes unless the student is over the age of 23 and has dependent children. (The HUD regulation say "over the age of 23" in this context, and "under age 24" in others).

K. REQUIREMENTS FOR STUDENTS TO ESTABLISH ELIGIBILITY:

A. Financial Independence:

Unless the NBHA determines that the student is financially independent from his or her parents, the eligibility of a student seeking Section 8 Assistance will be based on both the student and the parents being determined for Section 8 Assistance.

If the student can demonstrate that his or her parents are absent and not providing financial support, or that the student is independent from his or her parents. The determination of financial independence may include, but is not limited, to the following:

1. The Student must be at least 18 years old.
2. Separate household:
 - a. The individual must have established a household separate from his or her parents, or legal guardians for at least one-year prior to application for occupancy; or
 - b. The individual must meet one or more of the requirements in the U. S. Department of Education's definition of an "independent student". Age 24, veteran, married, graduation or professional students, or have legal dependents other than a spouse (for example, dependent children or an elderly dependent parent).
3. The individual must not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations.

4. The individual must obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided. The NBHA may accept a certification from another knowledgeable source or waive this requirement if the student demonstrates that his or her parents cannot be reached or that they cannot provide such a statement in a timely manner.

B. Parents' Income:

1. If the student is not determined to be financially independent from his or her parents, both the income of the parents and of the student must be considered to determine if the student is financially eligible for Section 8 assistance. Both the student's income and the parents' income must be separately assessed for income eligibility. That is, the student must be financially eligible on his or her own, including in the annual income, any support received from parents, and the student financial assistance in excess of tuition costs.
2. If the parent resides in another jurisdiction, the income limits for the area where the parents reside apply. HUD's "low Income" limit (80% of area median income) is the income eligibility standard for both the student and the parent(s).
3. The parent's eligibility for Section 8 must be reviewed annually, at the time of the student's annual recertification of eligibility.

C. Parent's Certification:

- a. The NBHA will require the student to provide a certification of income from each of the student's parents and their individual declarations of the amount of support they are each providing to the student, under penalty of perjury.
- b. If the student has been living with one parent and has not had contact with or does not know where to contact his or her other parent, the NBHA will require the student to provide a certification, under penalty of perjury, addressing the circumstance, including a statement that the student has not received financial assistance from the parent. The parent with whom the student has been living must provide a declaration of support they provide to the student and a certification of their income.
- c. The NBHA may waive the requirement that the parent(s) provide a declaration and certification, for good cause and to prevent undue hardship for the student. The basis for the waiver shall be documented and retained.

D. **STUDENT FINANCIAL AID:**

1. If the Student receives financial assistance (scholarships or grants, but not loans) that are more than his or her tuition costs, the excess amount will be included in annual income when determining the student's eligibility for Section 8 assistance. That amount also will be considered for rent calculation purposes unless the student is over the age of 23 and has dependent children.

2. Again, this provision does not apply to a student who lives with his or her parents in a Section 8 assisted unit, or who lives with parents who are themselves applying for Section 8 assistance.

3. Student financial assistance includes amounts earned under federal Work-Study (FWS) programs, to the extent that the student's financial assistance from all sources exceeds their actual tuition costs.

L. **SPECIAL SITUATIONS:**

a. **Two or More Students Living Together:**

If ~~two~~ two or more students under age 24 apply for or are receiving Section 8 rent assistance, their eligibility must be determined both individually and as a household. Each student's independence from or support from his or her parents, and his or her parents' financial eligibility for Section 8 must be examined separately also.

b. **One Household Member Ineligible:**

If one or more students living in a household with two or more student members are ineligible for Section 8 based on their parent's financial ineligibility or their failure to comply with this requirement, the entire student household is ineligible for Section 8 assistance. If the student household chooses to remove the ineligible student from the household (that is, the ineligible student moves out), the remaining eligible students may receive assistance. Section 8 voucher assistance may not be pro-rated to a household consisting of eligible and ineligible student members.

LEGAL AUTHORITY: Fiscal Year appropriations for HUD were enacted in Title III of Public Law 109-115 (119 Stat. 2936) on November 30, 2005, (the Act). Section 327 of the administrative provisions of the Act (1) introduced new restrictions on housing assistance that may be provided to students of higher education under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (1937 Act, and (2) directed HUD to issue a final rule no later than 30 days following enactment of the Act. In accordance with this statutory direction, HUD published a final rule implementing section 327 of the Act on December 30, 2005 (70FR 77742), and this rule became effective on January 30, 2006. HUD published further guidance on April 10, 2006 (71 FR 18146). The latter notice

stated that HUD would post additional guidance on its Internet Website. HUD provided a list of “Frequently Asked Questions” (FAQ’s) dated May 2, 2006.

HUD’S Notice PIH 2005-16 (HA) issued June 15, 2006 (expired June 30, 2006 and not renewed) also provides “Policy Guidance on College Student Admissions” to public housing agencies.