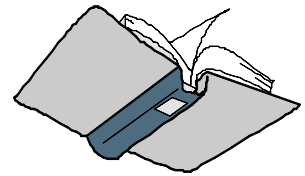


## CHANGE 3

### HUD Handbook 4350.3 Rev-1: Occupancy Requirements of Subsidized Multifamily Housing Programs

#### General Information

- ❖ Change 3 was released on June 23, 2009
- ❖ All changes took effect on August 1, 2009
- ❖ Most of the changes clarified the Handbook text, or corrected it to add notices and regulations changed issued since Change 2
- ❖ Download all the changes from:  
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3>
  - All documents are available in Adobe .pdf format
  - Some are available in Word .doc format
- ❖ The Transmittal, issued June 23, 2009, summarizes the changes
  - Changes are designated by an asterisk (\*) at the beginning and end of the text
  - Changed pages show Chg-3 in the header, and an 06/09 date at the bottom
  - Some changes are simply formatting or grammatical changes
  - Some changes are minor wording differences to be consistent with the language in other parts of the Handbook
- ❖ If you are printing out the new pages and replacing them in your old Handbook, be careful - sometimes the important text doesn't fit cleanly on replaced pages
  - Consider replacing your Handbook completely to avoid confusion
  - The Transmittal contains filing instructions, showing which pages to remove and which pages to replace them with.
- ❖ If you have questions or comments about Change 3, please send them to HUD at:  
[4350.3chg.3comments@hud.gov](mailto:4350.3chg.3comments@hud.gov)



## Chapters 1 and 2

### Chapter 1: Introduction

- ❖ New web address for the HUD Office of Fair Housing Intranet Website for Civil Rights Front-End Reviews:

<http://hudatwork.hud.gov/po/e/FEReview/cr-review.cfm> (1-7.B.3)

- ❖ New web address for the TRACS Website:

<http://www.hud.gov/offices/hsg/mfh/trx/trxsum.cfm> (1-7.B.5)



### Chapter 2: Civil Rights and Non-Discrimination Requirements

- ❖ Clarifies that an Affirmative Fair Housing Marketing Plan is required by HUD for both sites built before February 1972 and sites whose HAP contract requires it. (2-5.D.1.a)
- ❖ New web address for the Listing of ADA Regulations and Technical Assistance Materials:  
<http://www.usdoj.gov/crt/ada/publicat.htm> (2-26.E)

## Chapter 3: Eligibility for Assistance and Occupancy

- ❖ Live-In Aide Qualifications are Specifically Defined (3-6.E.3)
  - Sites must verify that a Live-In Aide is needed to provide "necessary supportive services essential to the care and well-being of the person" as a reasonable accommodation to make housing accessible to and usable by the person with a disability.
    - Verification must come from the person's doctor, psychiatrist, other medical practitioner or health care provider
    - There must be a disability-related need for this reasonable accommodation
    - Sites cannot demand access to confidential medical records or require that a tenant or applicant have a physical examination
- ❖ Medical Expenses Related to Live-In Aides [3-6.E.3.a.(2)(b)]
  - Out of pocket, non-reimbursed expenses for nursing services provided by the live-in aide (dispensing medications and providing for other medical needs) **ARE** medical expenses.
  - Out of pocket, non-reimbursed expenses for personal care services (bathing, dressing) **ARE** eligible medical expenses.

- Out of pocket, non-reimbursed expenses for homemaker services (housekeeping, meal preparation) **ARE NOT** eligible medical expenses.

❖ Live-In Aide Qualification for Occupancy [3-6.E.3.a.(2)(c)]



- Live-In Aides can only live in the unit as long as the person who needs the supportive services continues to require the aide's services and continues to be a tenant.
- Live-in Aides cannot stay in the unit as a remaining family member.
- Sites are encouraged to use a HUD-approved lease addendum that clearly states that the Live-In Aide cannot stay in the unit after the tenant, for whatever reason, is no longer living there.
  - The lease addendum should also give the owner the right to evict a Live-In Aide who violates any of the House Rules.
- As before, the income of a Live-In Aide does not count as part of the household's annual income.
- Live-In Aides must meet the site's screening criteria.
- A relative can be a Live-In Aide as long as they meet the requirements.

❖ Adult Children (no change, just a reminder)...

- For Section 202/8 sites, an adult child is eligible to move in after initial occupancy only if s/he is essential to the care or well-being of the elderly parent(s).
  - The adult child can be considered a Live-In Aide if s/he meets all of the requirements and the site has verified the need for a Live-In Aide. In this case, the adult child's income would not count.
- For Section 202 or Section 811 PRACs, adult children cannot move in after initial occupancy unless they are eligible to be Live-In Aides and actually perform those functions.

❖ Instructions for Accessing and Using, the SAVE (Systematic Alien Verification Entitlements) System (3-12.H)

- To use SAVE, owner/agents must submit the contact information for the site's designated SAVE user to the SAVE Administrator, along with the owner's project/contract numbers.
- After receiving an access code, user ID and temporary password, SAVE can be accessed at [www.vis-dhs.gov](http://www.vis-dhs.gov) to get primary and/or secondary verification.
- SAVE can be accessed from any computer with internet access.
- Owner/agents without internet access must use the paper process, mailing a Form G-845S and photocopies of immigration documentation to the local immigration office.



❖ Student Rule

- The date that a person with disabilities had to be receiving Section 8 assistance in order to qualify under the student rule (if no other qualifying criteria are met) was corrected to November 30, 2005, consistent with the clarification released after Change 2 (3-13.A.2.f)
- Determining eligibility for non-Section 8 students (3-13.B):
  - Clarifies that this paragraph applies to Rent Supp, RAP, Section 221(d)(3) BMIR, Section 236, Section 202 PACs and Section 202 and Section 811 PRACs.
  - Excludes full amounts of financial assistance from income, including
    - Scholarships funded under Title IV
    - Federal work-study programs
    - Bureau of Indian Affairs student assistance programs
    - These amounts can be paid either to the student or directly to the school

❖ Calculating Prorated Amounts for Section 236 (Exhibit 3-14)

- Basic Rent (a new field on the 50059 with TRACS 202.C) is to be used in calculating prorations for mixed-citizenship eligible households.

## Chapter 4: Waiting List and Tenant Selection

❖ Student Eligibility and Income

- Eligibility of students is a required Tenant Selection Plan topic for all subsidy types, not just Section 8 (Figure 4-2)
- The word "college" was removed to clarify that "institutions of higher learning" do not have to be colleges (4-4.C.8)
- Exhibit 5-1, Income Inclusions, now has an added note indicating that Paragraph 9 (which includes financial aid income in excess of tuition) does not apply to students living with their parents

❖ Income Targeting (4-5.A)

- This Note adds RAP, Rent Supp, Section 221(d)(3) BMIR and Section 236 to the already-excluded 202 PAC and all PRAC programs.

❖ Exhibit 4-1 Error was corrected

- The website <http://hudstage.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/43503e4-1HSGH.pdf> was incorrect. It was corrected in HUD Clips on August 5, and now reads: <http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/43503e4-1HSGH.pdf>

## Chapter 5: Determining Income and Calculating Rent

### ❖ Changes in Household Members and Income (Figure 5-2)

- Foster children and fostered adults are now considered to be family members
- Income for fostered adults, both employment and unearned income, is now counted as household income
- For foster children, employment income is still excluded. But unearned income does count as household income
- These provisions were changed to be in compliance with the regulations at 24 CFR 5.609, and will change income calculations for Low Income Housing Tax Credit tenants too.



### ❖ Notice H 03-07, Regarding Deployment of Military Personnel to Active Duty, was Added (5-6.C)

- Owners are encouraged to "be as lenient as responsibly possible" to support households with members who are on active duty in the military. Owners should...
  - Allow a temporary guardian to move in to take care of any dependents the military person leaves in the unit. The income of that temporary guardian is not counted.
  - Allow an existing tenant to take care of the dependents of tenants called to active duty on a temporary basis, as long as the head and/or co-head continues to serve. The childrens' income (e.g., SSI benefits, military benefits) is not counted as income of the person providing the care.
  - Exclude special pay for hostile fire from household income.
  - Give consideration for late rent payments, and determine whether late payments will be accepted.
  - Allow the assistance payment and the lease to stay in effect for a reasonable period (depending on the length of deployment) beyond what's required by the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. §§ 501-591, even though the adult members of the military family are temporarily absent from the unit.
- Subsequent paragraphs were renumbered

### ❖ Pension Funds as Income when Paid Directly to Former or Separated Spouse

- The procedures for counting such income for Federal Government Pension Funds also apply to Uniformed Services (military) pensions...
  - When those funds are paid directly to an applicant's/tenant's former spouse, per the terms of a court decree of divorce, annulment, or legal separation, they are not counted as annual income of the person paying them. They are counted as income of the person receiving the funds. (5-6.L.4 and 5-7.G.5)

- Other state, local government, social security or private pension funds paid directly to an applicant's/tenant's former spouse per the terms of a court decree of divorce, annulment, or legal separation are also handled in the same way.
  - The legal decree and copies of statements should be obtained to verify the net amount of the pension that should be applied. (5-6.L.5 and 5-7.G.6)
- ❖ Clarification of Interims when Imputed Assets Cover only a Partial Year
  - As before, when the two-year period expires, the income of the disposed asset also expires. If the two-year period ends in the middle of a recertification year, the tenant may request an IR to remove the disposed asset.
  - However, if the site only included the income for the partial remaining year during the current cert in force, an IR should not be done. (5-7.G.8.c)
- ❖ 9887/9887A Must be Signed by Heads, Spouses and Co-Heads who are Under 18 (5-15.B.1)
- ❖ Section 8 Minimum Rent Does Not Apply to Rent Supp, RAP, Section 221(d)(3) BMIR or Section 236 Programs
  - A note to this effect was added at 5-26.D to clarify.
  - 5-26.D already specifically excluded 202 PAC and all PRACs.



## Chapter 6: Lease Requirements and Lease Activities

- ❖ 50059-A Printouts (6-5.A.4, 6-11.B.2, 6-11.B.4, 6-27.B.1.f, 7-7)
  - They must always be signed and dated by the owner
  - Tenant signature requirements vary:
    - Move-Outs and Terminations do not need to be signed by the tenant
    - Unit Transfers must always be signed by the Head of Household
    - Gross Rents only require the Head of Household's signature when the TTP/TR changes
  - 50059-As must be attached to the lease whenever the 50059 would have been attached.
  - 50059-As must be provided to the tenant (when applicable - i.e. not for Move-Outs)
  - 50059-As must be kept in the tenant file
- ❖ Tenants Conducting Incidental Businesses in the Unit (6-9.B.3)
  - Owner/agents may have House Rules related to incidental businesses (e.g. computer work, limited babysitting, etc.). Rules can deal with, or prohibit, things like:
    - Amount of foot and motor vehicle traffic associated with the business income



- Amount of noise
- Prohibiting signs in unit windows
- Use of on-grounds site parking
- Hours that incidental work could be performed if the work could disturb the rights or comfort of the neighbors; and
- Other reasonable rules
- Tenants who conduct incidental businesses in their unit and receive incidental business income are not in violation of paragraph 13, General Restrictions, of the Model Lease for Subsidized Programs.
- The paragraphs following this addition were renumbered.



## Chapters 7 and 8

### Chapter 7: Recertification, Unit Transfers and Gross Rent Increases

- ❖ Voucher Adjustments for Late Annuals (7-6)
  - As before, HUD Headquarters and CAs will terminate assistance payments if a new AR isn't transmitted through TRACS within 15 months of the previous year's AR.
  - At that point, a Termination will be done to repay the assistance collected for the 3-month period from the date the AR was due, through the end of the 15th month.
  - If/when a new AR or IC is processed, sites must follow the rules in 7-8 regarding the effective date for changes in TTP, tenant rent and assistance. These rules have not changed.
    - If the tenant reported in with all required items by the 10th of the 11th month, s/he must receive a 30-day notice of rent increase.
    - If the tenant reported in (with all required items) after the 10th of the 11th month, but prior to the AR due-date, the tenant has given up his/her right to a 30-day notice of rent increase.
    - If the tenant did not report in, with all required items, by the AR due-date, the site must terminate assistance (or, in the case of PRACs, begin eviction proceedings).

### Chapter 8: Termination

- ❖ Assistance Must be Terminated for Students Enrolled at Institutions of Higher Learning Who Do Not Meet Eligibility Requirements
  - The removal of the "Section 8" specific mandates household subsidy termination for all programs, not just for Section 8 programs (8-5.F)

- ❖ Use and Retention of Criminal Records: Differences Between PHA and Owner (8-14.C.13-14)
  - Criminal records obtained by the Public Housing Authority must be maintained confidentially, not misused or improperly distributed, and destroyed upon completion of the originally intended use.
    - When destroying the records, the PHA should note, in the tenant file, the date the records are destroyed and that the records were destroyed for purposes of confidentiality.
  - Criminal records obtained by Owners must be maintained confidentially, not misused or improperly distributed, and destroyed three years after tenancy is terminated.
    - Criminal records received for applicants who never moved in must be retained with the application for three years.

## Chapter 9: Required HUD-50059 and Subsidy Data Reporting (TRACS)

- ❖ Adds the 50059A and extra voucher pages (i.e. for miscellaneous accounting requests, adjustments) to the list of items to be transmitted through TRACS. (9-4.A)
- ❖ Several of the changes simply include the 50059A and its required TRACS fields, since this is a new form introduced with TRACS 202.C. The calculation spreadsheets included in the TRACS 202.C spec are referenced.
- ❖ Several of the changes update links to instructions, refer to the updated MAT Guide available on the TRACS Home Page and update language to reflect TRACS 2.02.C and iMAX.
- ❖ 50059A Signature and Distribution Requirements (9-5.4.C, 9-8.C)
  - For all actions requiring 50059As, owners must sign and date them
  - The head of household must sign and date the 50059A when:
    - There is a change in the amount of rent the tenant pays
    - There is a change in the utility reimbursement
    - There is a unit transfer, and
    - When required by state or local law
  - The head of household must receive a copy, and a copy must be kept in the tenant file
- ❖ Contract Administrators should transmit, to HUD, throughout the month, tenant TRACS files they have reviewed and approved. (9-6.E)





❖ Exception to "Signature Before Vouchering" Rule for Gross Rent Certs (9-8.C)



- Required tenant signatures for Gross Rent 50059As don't have to be obtained before transmitting them to TRACS or including them on a voucher (unless local/state law required it). But the required signatures must be obtained within 60 days from the date the gross rent change is implemented (vouchered) by the owner.

❖ Link to the iMAX User Guide is Provided:

<http://www.hud.gov/offices/hsg/mfh/trx/pdf/imaxuserguide.pdf>\* (9-9.C.1)

❖ Clarifications to PRAC Vouchers with Negative Amounts (9-12.D.2.b-d)

- When the total of the Regular Assistance Payments for a month is a negative amount, this amount must be deposited into the Residual Receipts account, each month that it occurs.
- When both the total of the Regular Assistance Payments and the total of the Adjustments for a month are negative...
  - The total negative amount of Regular Assistance Payments must be deposited into the property's Residual Receipts account, **and**
  - There must be an adjustment on the next scheduled voucher to repay HUD the amount of the total negative Adjustments.
- When the total of the Regular Assistance Payments on a voucher for a month is positive, but both the total Adjustments and the bottom line Total Subsidy Authorized are negative...
  - There must be an adjustment on the next scheduled voucher to repay HUD the amount in Total Subsidy Authorized (i.e. bottom line total).
- When a project continuously has negative vouchers, such that adjustments can't be made on the next voucher to pay HUD, the owner must issue a check to HUD for payment.

❖ New TRACS 202.C Method of Calculating Adjustments is Detailed (9-12.E.4)

- All adjustments begin on the first of the month during which billing changes caused by new (or changed) certs start, and end on the day prior to the voucher month, or at the end of the month the new (or changed) cert ends.
- All billing changes are reported by returning all previously billed amounts to HUD via a negative number, and then billing for the same period, including any new or changed amounts.

## Glossary, Appendices, Exhibits and Notes

- ❖ Glossary Definition of Operating Rent (PRAC) now reads, "The rent approved by HUD to cover the operating expenses at a PRAC project."

❖ Model Leases, Appendices 4-A - 4-D

- The letters referencing the instructions (in Appendices 4-E, 4-F and 4-G) for applying the leases were moved from the middle of the lines to the beginning of the lines, so that leases can be copied from the Handbook and the lines can be filled in, if the site wishes to do so.



- Change in Lease Term (Length of Time)

- Appendix 4-E: Paragraph 2: Model Lease for Subsidized Programs in 4-A
  - Instead of spelling out the lease terms, the Handbook now refers the reader to Chapter 6, Figure 6-3 for the initial and renewal lease terms by program type.
  - The definition of the "initial term of the lease" is for twelve calendar months. This can be beginning January 1 and ending December 31. Or, it can be for 12 calendar months beginning at any point (e.g., beginning May 15, 2009 and ending May 14, 2010.)
  - For local areas where the practice is to end the date at the end of the month, the initial lease term would begin May 15, 2009 and ending May 31, 2010.
- Appendix 4-F: Paragraph 1: Model Lease for Section 202/8 and 202 PAC in 4-B, and Appendix 4-G: Paragraph 1: Model Lease for PRAC 202s and PRAC 811s
  - Instead of spelling out the lease terms, the Handbook now refers the reader to Chapter 6, Figure 6-3 for the initial and renewal lease terms by program type.
  - The definition of the "initial term of the lease" is for twelve calendar months. This can be beginning January 1 and ending December 31. Or, it can be for 12 calendar months beginning at any point (e.g., beginning May 15, 2009 and ending May 14, 2010.)
  - For local areas where the practice is to end the date at the end of the month, the initial lease term would begin May 15, 2009 and ending May 31, 2010.

- ❖ When the revised-for-Chapter 3 version of the Handbook was posted in HUD Clips, the links in the listing of Exhibits at the end of Chapters 3, 4, 5 and 7 did not work. The links were corrected on August 5, and the chapters were re-posted on HUD Clips. If you printed the Chapters, you should print and replace pages 3-79, 3-80, 4-61, 5-80 and 7-32.

- At the same time, the Exhibits were removed from the ends of the chapters, and were posted separately on HUDCLIPS.
- The link for Exhibit 4-2 (which was mistakenly for the Department of Homeland Security form G-845 instead of G-845S) has been corrected in HUDCLIPS. The correct link is:  
<http://www.uscis.gov/files/form/g-845s.pdf>

**THANKS FOR ATTENDING!**