

## Counting Legal Dependents

July 23, 1990

Honorable Carl Levin  
United States Senator  
124 W. Michigan Avenue  
Lansing, MI 48933

Dear Senator Levin:

On behalf of Secretary Kemp, thank you for your May 23, 1990, letter on behalf of the City of East Lansing, Michigan, regarding a February 12, 1990, memorandum from Assistant Secretary Kondratas to HUD's Detroit Field Office. The February 12 memorandum described how to determine the income qualification of a student who is a legal dependent of his or her family, but who resides in another place.

In your letter, you state that the City of East Lansing "feels it is contrary to the established HUD rule-making process for the Assistant HUD Secretary to effectuate a new program regulation through the issuance of a memo." We agree. The memorandum applied current regulations to the facts of a specific case and thus, the decision does not constitute a new requirement. (In fact, CDBG is not the only HUD program that considers dependent students part of a family to determine income qualification. The policy is shared with the Section 8 program.)

As you state, HUD has left the definition of income in the Community Development Block Grant (CDBG) program to grantees. The definition of the unit receiving the income (a family) has, however, been defined at 24 CFR 570.3(m) of the CDBG regulations. The February 12 memorandum simply confirmed that a dependent student is considered to be part of a low- and moderate-income family for the purposes of determining family income.

This rule was not applied without reason. While HUD recognizes that students are often in an intermediary financial status, not properly independent yet, but no longer totally dependent on their families for support. HUD must also set rules for CDBG that target the program to its intended low- and moderate-income beneficiaries and that limit the possibility for abuse of the funds.

Two other issues are raised in your letter that should be addressed. First, as you state, HUD does not currently consider most college students to be permanent residents of the community in which they attend school. This is consistent with current policy of the Bureau of the Census. However, HUD is aware that Census policy for the 1990 Census may have changed in this area. Some HUD policy changes may occur as the new data comes into use.

Second, you state East Lansing's civil rights ordinances may have been violated by this policy. Without further information, this complaint is difficult to address. However, HUD field staff believe that East Lansing's ordinance may protect more classes than the Federal statute. Because it is not possible for a national policy to provide for every special local situation, HUD permits grantees to add stricter

requirements that meet local needs, provided the grantee recognizes its own responsibility for the effects of such actions.

Again, thank you for your letter, and for your support of community development.

Very sincerely yours,

Timothy L. Coyle  
Assistant Secretary