

Public Housing Agencies;  
Secretary's Representatives;  
State Representatives; Field  
Office Public Housing Direc-  
tors; Resident Management  
Corporations

NOTICE PIH 96-52 (HA)  
Issued: July 25, 1996  
Expires: July 31, 1997

Public Housing Management Assessment Program (PHMAP) --  
Indicator #8, Security: "One Strike and You're Out"

1. PURPOSE: The purpose of this Notice is to provide public housing agencies (PHA) with advance notification and additional information, clarification and guidance pertaining to indicator #8, security, which covers the provisions of the "One Strike and You're Out" policy. The security indicator will be published in the FEDERAL REGISTER as part of the final Public Housing Management Assessment Program (PHMAP) rule.
2. BACKGROUND: The PHMAP was established pursuant to § 502(a) of the Cranston-Gonzalez National Affordable Housing Act of 1990 (approved November 28, 1990, Pub. L. 101-625, 104 Stat. 4079) as amended by the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (approved October 28, 1991, Pub. L. 102-139). PHMAP provides policies and procedures for use in identifying PHA management capabilities and deficiencies, and allows HUD Field Offices to implement accountability monitoring and risk management.

On March 28, 1996, President Clinton announced a "One Strike and You're Out" policy for public housing residents and signed into law the "Housing Opportunity Program Extension Act of 1996," providing additional authority to PHAs in the areas of screening, lease enforcement, and eviction in order to help PHAs fight crime in public housing communities. The policy will enhance the ability and related efforts of PHAs to develop and enforce stricter screening and eviction policies as a part of their anti-drug and anti-crime initiatives.

The 1996 "Extender Act" gives PHAs new authority to deny occupancy on the basis of illegal use of a controlled substance or alcohol abuse when such use or abuse leads to behavior that threatens the health, safety or right to

peaceful enjoyment of the premises by other residents.

On April 12, 1996, the Department issued Notice PIH 96-16 (HA), "One Strike and You're Out" Screening and Eviction Policies for Public Housing Authorities (HAs)," providing guidelines to assist PHAs in the development and enforcement of stricter screening and eviction procedures.

The language requirements for the implementation of the provisions of the 1996 "Extender Act" were provided in Notice PIH 96-27 (HA), "Occupancy Provisions of the Housing Opportunity Program Extension Act of 1996," issued on May 15, 1996. This Notice describes the screening, lease, and eviction provisions that PHAs must adopt as a result of the 1996 "Extender Act."

A proposed new PHMAP rule was published by the Department in the FEDERAL REGISTER of May 6, 1996. The proposed rule eliminates some indicators, combines or makes changes to others, and adds a new security indicator which covers the provisions of the "One Strike and You're Out" policy for public housing residents and other anti-drug and/or anti-crime security initiatives for public housing.

3. ADVANCE NOTIFICATION : This advance notification is given to PHAs to enable them to implement the "One Strike and You're Out" policy as soon as possible. If a PHA is not as yet implementing all or part of the provisions in this indicator, it is strongly encouraged to do so. PHAs will be assessed under this new security indicator, which measures PHA performance in implementing effective screening and eviction policies and other anti-crime strategies. These revisions will be forthcoming in the final PHMAP rule and will apply to PHAs with fiscal years ending the subsequent quarter after the final PHMAP rule is published in the FEDERAL REGISTER.

In response to the comments received on the proposed PHMAP rule, several changes have been made to the security indicator. When published as part of the final PHMAP rule, this indicator will apply to PHAs with 250 or more units under management. This change is in conformance with other HUD programs that use PHAs with 250 or more units as a benchmark. Although this indicator will not apply to PHAs with fewer than 250 units, they should be keeping records of crime, reporting it to local law enforcement, administering rigorous screening criteria, evicting residents who engage in criminal activity, and meeting the goals specified by categorical grants as good management practices even though they will not be measured for this activity under the final PHMAP rule.

This new indicator will be reorganized into four components, and the indicator grade will be a composite of the component scores, as is the pattern in the other PHMAP indicators.

Lastly, in response to the comments received, PHAs will not be assessed under this indicator for taking action with local police authorities to improve law enforcement and crime prevention. This change is in response to a great many comments that stated that PHAs should not be held responsible for the actions and effort of local police to improve enforcement, and relying on the cooperation of an outside agency would tend to penalize a PHA. However, although PHAs will not be measured under this criterion, it is essential for PHAs to continue to work closely with local police authorities in order to have an effective crime prevention program.

Indicator #8, security, when published as part of the final PHMAP rule, will have the following components, each with a range of grades.

Component #1, tracking and reporting crime related problems, will examine whether the PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it tracks crime related problems at its developments and reports incidence of crime to local police authorities to improve law enforcement and crime prevention.

Component #2, screening of applicants, will examine whether the PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it appropriately screens out and denies admission to a public housing applicant who: (1) has a recent history of criminal activity involving crimes to persons or property and/or other criminal acts that affect the health, safety, or right to peaceful enjoyment of the premises by other residents; (2) was evicted from assisted housing within three years of the projected date of admission because of drug-related criminal activity; (3) the PHA determines an applicant is illegally using a controlled substance; or (4) the PHA has reasonable cause to believe an applicant illegally uses a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The "Extender Act" provides that PHAs may request criminal conviction records of adult applicants from the National Crime Information Center (NCIC), police departments and other law enforcement agencies. A PHA may also request records of juveniles convicted as adults. The NCIC, police departments

and other law enforcement agencies are obligated to provide the record once a PHA submits a request. PHAs that request such records must establish and maintain a system of records management that ensures that any criminal record is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which the record was requested has been accomplished.

The term "appropriately" refers to a PHA's ability to act consistently with the provisions of 24 CFR § 966.4(1)(5) - Eviction for criminal activity - (i) PHA discretion to consider circumstances .

Component #3, lease enforcement, will examine whether the PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it appropriately evicts a public housing resident who: (1) engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; (2) engages in any drug-related criminal activity on or off the PHA's property; or (3) the PHA determines a resident is illegally using a controlled substance, or the resident abuses alcohol or uses a controlled substance in such a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The term "appropriately" refers to a PHA's ability to act consistently with the provisions of 24 CFR § 966.4(1)(5) - Eviction for criminal activity - (i) PHA discretion to consider circumstances .

Component #4, grant program goals, will examine whether the PHA has documented that it is meeting its goals under the implementation plan for any PHA drug prevention program or crime reduction program funded by HUD, if the PHA has any such programs.

PHAs should begin taking action immediately to address the security indicator and begin retaining documentation that supports their activities for each of the components.

4. FURTHER INFORMATION : For further information on public housing screening and eviction policies and procedures, and HUD's anti-drug and anti-crime strategies, contact your local Field Office, Director, Office of Public Housing, Department of Housing and Urban Development.

/s/ Kevin Emanuel Marchman

Acting Assistant Secretary for  
Public and Indian Housing