
**HUD HANDBOOK 4350.3: OCCUPANCY REQUIREMENTS OF
SUBSIDIZED MULTIFAMILY HOUSING PROGRAMS**

SUMMARY FOR PROPERTY OWNER

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PURPOSE OF HUD HANDBOOK 4350.3 AND THIS SUMMARY

HUD-subsidized multifamily properties represent an important and valuable resource in addressing the nation's affordable housing needs. The successful delivery of this housing resource to the people who need it depends on effective occupancy policies and procedures.

HUD's occupancy requirements and procedures ensure that eligible applicants are selected for occupancy, that tenants receive the proper level of assistance, and that tenants are treated fairly and consistently.

HUD Handbook 4350.3 Rev-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs* (also referred to in this summary as the *Multifamily Occupancy Handbook*) describes occupancy-related program requirements and the responsibilities of HUD, Contract Administrators, property owners, property managers, and tenants.

This summary is provided to help property owners and managers of HUD-subsidized properties. It highlights a number of the key occupancy requirements in HUD Handbook 4350.3 of particular interest to owners and their managers, and it provides references to the handbook for each topic.

I. INTRODUCTION

This section describes:

- The key topics addressed in this summary;
- The types of properties covered by the Handbook;
- The responsibilities of HUD and Contract Administrators; and
- Principles for addressing overlapping federal, State, and local requirements.

Q: *What are the key topics that this summary addresses?*

A: The key topics from HUD Handbook 4350.3 Rev-1 that are highlighted in this Summary include:

- Requirements regarding program eligibility and project eligibility;
- Determining applicant eligibility;
- Waiting lists and tenant selection;
- Civil rights and nondiscrimination requirements;
- Determining applicant/tenant income and calculating rent;
- Lease requirements and leasing activities;
- Recertifications, unit transfers, and gross rent changes;
- Termination of tenant assistance and tenancy;
- Basic requirements for subsidy tracking using the Tenant Rental Assistance Certification System (TRACS); and
- Subsidy payments that HUD makes to owners and the reporting requirements tied to these payments.

HUD Handbook 4350.3 Rev-1 does not include information about program rules that go beyond occupancy requirements, such as requirements regarding a property's physical condition, unit maintenance, the rent increase process, maintaining a property's financial records, etc. For information about these topics, **please refer to HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing***.

For a listing of HUD informational resources about further topics, **please refer to Section X – “*Other Sources of Information*” in this Summary, or HUD Handbook 4350.3, Chapter 1, paragraph 1-7.**

Q: *What types of properties does the Handbook address?*

A: HUD Handbook 4350.3 addresses the following types of properties:

- Section 221(d)(3) Below-Market Interest Rate (BMIR);
- Section 236;
- Rental Assistance Payment (RAP);
- Rent Supplement;
- Section 8 Project-Based Assistance, which includes:
 - New Construction properties;
 - State Agency Financed properties;
 - Substantial Rehabilitation properties;
 - Section 202 properties with Section 8 assistance;
 - RHS Section 515 properties with Section 8 assistance;
 - Loan Management Set-Aside (LMSA) assistance;
 - Property Disposition Set-Aside (PDSA) assistance;
- Section 202 without Assistance (for income limits only);
- Section 202 with 162 Assistance – Project Assistance Contracts (PACs);
- Section 202 with Project Rental Assistance Contracts (PRACs); and
- Section 811 with Project Rental Assistance Contracts (PRACs).

For more information on the programs listed above, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 1, paragraph 1-3.**

Q: *What are the occupancy responsibilities of HUD and Contract Administrators?*

A: HUD holds primary responsibility for administering project subsidy contracts but has assigned some of these responsibilities to other entities that act as Contract Administrators. There are two types of contract administrators:

- Non-Performance Based Contract Administrators; and
- Performance-Based Contract Administrators (PBCAs).

For more information on Contract Administrators, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 1, paragraph 1-4.**

Q: What are the principles for addressing overlapping federal, State, and local occupancy requirements?

A: In addition to complying with the Multifamily Occupancy Handbook, owners must comply with other federal, state, and local laws applicable to the occupancy of multifamily housing properties. For information on how to address statutory program eligibility requirements, multiple federal laws that apply to a particular situation, and overlap between federal, state, and local nondiscrimination laws, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 1, paragraph 1-5.**

II. PROGRAM AND PROJECT ELIGIBILITY

This section describes:

- Applicant/tenant eligibility for participation in programs covered by the handbook
- Applicant/tenant eligibility for specific properties

Q: What are the eligibility requirements for the various HUD programs covered by the Handbook?

A: Program eligibility determines whether applicants are eligible for assistance.

Owners are obliged to determine whether applicants are eligible to be beneficiaries of the housing program that is providing the subsidy to the property. Eligibility is determined by federal statute and HUD regulation.

Applicants and tenants must meet the following requirements to be eligible for housing assistance.

- The family's annual income must not exceed program income limits.
- Applicants must disclose social security numbers for all family members over the age of 6 and provide proof of the numbers reported.
- All adults in each applicant family must sign an Authorization for Release of Information (Form HUD 9887) prior to receiving assistance and annually thereafter.
- The unit for which the family is applying must be the family's only residence.
- An applicant must agree to pay the rent required by the program under which the applicant will receive assistance.
- Only U.S. citizens or eligible noncitizens may receive assistance under Section 8, Section 236, Rent Supplement, Rental Assistance Payment (RAP), and Section 202/8 programs.
- All information reported by the family is subject to verification.

Various subsidy or insurance programs may impose additional occupancy restrictions.

For more specific information about program eligibility and the other items below, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 3, Section 1.**

- Income limits by program type;
- Exceptions to income limits in Section 8 properties;
- Admitting over-income applicants;
- Disclosure of social security numbers;
- Residence criteria; and
- Restriction on assistance to non-citizens.

Q: How is an applicant's/tenant's eligibility determined for a specific project?

A: *Project eligibility requirements* establish whether applicants are eligible to reside in the specific project to which they have applied. Three things may affect the match between an applicant and the applicant's eligibility for occupancy in a particular project:

- The extent to which all or some of the units in a project are designated for specific family types, such as those for the elderly or disabled;
- The project-specific occupancy standards established by the owner, the family size, and the unit sizes available in the project; and
- In some instances, a family's intention to lease using a housing-choice voucher subsidy that may be used in some projects and not in others.

Although individual programs often serve more than one tenant population, individual projects might not.

There are multiple steps in determining the match between a project's eligibility requirements and a particular applicant's eligibility to live in the project. Personnel who review applications should do as follows:

- Confirm the eligibility rules for the project;
- Determine the applicant family type in relation to project eligibility rules;
- Determine the current occupancy of project units in relation to the populations intended to be served;
- Compare the applicant's characteristics in relation to the availability of units; and
- Determine whether the applicant: (1) meets eligibility and unit available, (2) meets eligibility but unit not available, or (3) does not meet eligibility.

For more specific information about project eligibility and the other items below, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 3, Section 2.**

- Eligibility of remaining family members;
- Definitions of elderly and disability use to determine project eligibility;
- Establishing that a project was designed for the elderly;
- Eligibility requirements for admission to elderly projects;
- Applicants with Housing Choice Vouchers; and
- Occupancy standards.

III. WAITING LISTS AND TENANT SELECTION

This section describes:

- Tenant selection plans;
- Marketing and Affirmative Fair Housing Marketing Plans;
- Processing applications and managing waiting lists; and
- Selecting tenants from the waiting list.

Q: Does HUD require properties to have written tenant selection plans?

A: Owners must develop written tenant selection policies and procedures that include descriptions of the eligibility requirements and income limits for admission that are used at the property. The procedures must ensure nondiscrimination in the selection of tenants. The contents of the plan also must be consistent with the purpose of improving housing opportunities and be reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease.

For information on HUD reviews of the tenant selection plan, required plan contents, and recommended contents, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 4, paragraph 4-4 and Figure 4-2.** Please refer to **Chapter 4, Section 1** for information on these additional topics:

- Income-targeting;
- Preferences;
- Screening for tenant suitability (including requirements regarding screening for drug abuse and other criminal activity); and
- Rejecting applicants.

Q: What are HUD's requirements for marketing HUD-subsidized housing and for establishing Affirmative Fair Housing Marketing Plans?

A: Owners of all multifamily properties built or substantially rehabilitated since July 1972 are required to develop and carry out an Affirmative Fair Housing Marketing Plan (form HUD-935.2). Owners of properties built or rehabilitated before July 1972 are not required to have a plan in the prescribed form; however, they must affirmatively market their units to those least likely to apply.

The marketing effort should attract a broad cross-section of the eligible population without regard to race, color, religion, sex, disability, familial status, or national origin. For additional information on marketing and Affirmative Fair Housing Marketing Plans, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 4, Section 2**, which includes specific information on the following additional topics:

- Special marketing requirements;
- Advertising; and
- Updating the marketing plan.

Q: *What guidance does HUD provide on processing rental applications and managing waiting lists?*

A: Upon receiving an application for tenancy, the owner must process the application for admission, place the applicant's name on a waiting list, or reject the applicant. The owner must keep records that indicate the date and time the applicant submitted an application.

If a unit is not immediately available, HUD recommends that owners make a preliminary eligibility determination before putting a household on the waiting list. Owners also must collect information about any preferences for which the applicant qualifies, so that they are able to select applicants from the waiting list in accordance with preferences established for the property.

HUD or the Contract Administrator regularly monitors property waiting lists to ensure that owners are admitting tenants in a manner consistent with program requirements and the property's tenant selection plan, and that changes to the waiting list are adequately documented. Therefore, it is important for owners who maintain manually recorded waiting lists to retain these lists as permanent records. Owners who maintain electronic waiting lists must retain documentation so that there is a permanent record of additions, deletions, or other changes.

For additional information on application processing and waiting list management, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 4, Section 3**, which includes specific information on the following additional topics:

- Requirements regarding matching applicants on the waiting list to available units;
- Requirements about placing families with disabled family members;
- Updating waiting list information;
- Removing names from the waiting list; and
- Record-keeping.

Q: *What are the key requirements regarding selection of applicants from the waiting list?*

A: When an owner has taken applications and developed a waiting list of applicants, the owner must select applicants from the waiting list and offer available units in an order consistent with HUD rules and owner policies.

When a unit becomes vacant, owners must select the next applicant from the waiting list based upon the unit size available, preferences established for the property, income-targeting policies and requirements, and screening policies applied by the owner. The owner will select the first name on the waiting list for the appropriate unit size (or the names for families in need of accessible units) and make a final determination of the applicant's eligibility and suitability for tenancy, as described above in Section II of this summary.

For additional information on selecting tenants from the waiting list, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 4, Section 4**, which includes specific information on the following additional topics:

- Interviewing applicants once a unit becomes available;
- Applying income targeting requirements in Section 8 properties;
- Verifying preferences;
- Screening for tenant suitability; and
- Denying assistance to noncitizens.

IV. CIVIL RIGHTS AND NONDISCRIMINATION REQUIREMENTS

This section describes:

- The key civil rights and nondiscrimination requirements that affect HUD-subsidized housing;
- Owners' affirmative obligations to comply with nondiscrimination and accessibility requirements for persons with disabilities;
- Definition of person with disabilities for civil rights protections versus program eligibility purposes;
- Policies and procedures to ensure nondiscrimination and promote accessibility;
- Physical accessibility;
- Reasonable accommodations;
- Allowing tenants to make reasonable modifications to their units; and
- Housing discrimination complaints.

Q: What are the key civil rights and nondiscrimination requirements that affect HUD-subsidized housing?

A: Federal civil rights laws addressing fair housing prohibit discrimination against applicants or tenants based on one or more of the following prohibited bases:

- Race;
- Color;
- National origin;
- Sex;
- Disability;
- Religion; and
- Familial status (refers to families living with children under the age of 18, regardless of the number of children).

There are multiple laws that address the rights of tenants in subsidized housing. For information on these laws and key civil rights and nondiscrimination requirements in subsidized housing, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 2, Section 1**, which includes specific information on applicable laws and required data and record-keeping.

Q: *What are owners' affirmative obligations to comply with nondiscrimination and accessibility requirements for persons with disabilities?*

A: Under Section 504 of the Rehabilitation Act of 1973, owners of properties covered by the Multifamily Occupancy Handbook have affirmative obligations to establish and implement nondiscrimination policies and to ensure required accessibility to the persons with disabilities.

Owners having an "affirmative obligation" to comply with nondiscrimination and accessibility requirements means that owners must meet certain accessibility standards regardless of whether or not an applicant or tenant has made a specific request relating to accessibility. The owner must make the property physically accessible and operate and administer the property in a manner that enables persons with disabilities to have equal access to participate in the program under which the project was funded.

For additional information on the owner's affirmative obligations to comply with nondiscrimination and accessibility requirements for persons with disabilities, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 2, paragraph 2-22.**

Q: *Is there a difference in the definition of person with disabilities when it is used in the context of civil rights protections versus program eligibility purposes?*

A: There is a distinction between the definitions of "persons with disabilities" and "disability" as defined for civil rights protection and for program eligibility purposes. See the Glossary in HUD Handbook 4350.3 Rev-1 for the definitions of:

- Persons with disabilities (as defined for civil rights protections); and
- Disability (as defined for civil rights protections).

In determining eligibility for admission to HUD-subsidized multifamily properties, owners must use the definitions for "disabled family," "disabled household," "persons with disabilities (as defined for program eligibility purposes)," and "nonelderly disabled family" as presented in **HUD Handbook 4350.3 Rev-1, Chapter 3, Section 2 and the Glossary.**

Q: *What are the owner's responsibilities to implement policies and procedures to ensure nondiscrimination and promote accessibility?*

A: Section 504 requirements establish specific responsibilities for owners regarding nondiscrimination in policies, services, and practices at projects.

Owners must not provide services or follow policies or practices that discriminate on the basis of disability against a person with disabilities. Likewise, owners must modify their housing policies and practices to ensure that they do not discriminate on the basis of disability against a person with disabilities. Owners must ensure that their policies and procedures do not have a disparate or disproportionately negative impact on persons with disabilities.

For additional information on owner policies and procedures to ensure nondiscrimination and promote accessibility, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 2,**

Section 3, Subsection 2, which includes specific information on the following additional topics:

- Owner coordination of efforts to comply with Section 504 requirements;
- Communications with persons with disabilities;
- Determining eligibility of applicants for admission and assistance;
- Assigning accessible units;
- Moving tenants who require special features into accessible units; and
- Owner self-evaluation and transition plan for completing structural changes needed to make the property readily accessible to and usable by persons with disabilities.

Q: *Are there requirements for physical accessibility in HUD-subsidized projects?*

A: In addition to requirements that ensure that owners operate their properties in a manner that protects against discrimination and promotes accessibility for persons with disabilities, there are also requirements regarding the physical accessibility of properties.

For information on physical accessibility requirements, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 2, Section 3, Subsection 3**, which includes specific information on the following additional topics:

- Accessibility of common use facilities;
- Physical alterations to existing housing;
- Building standards; and
- Limitations on owners' obligations to make their properties physically accessible to persons with disabilities.

Q: *What is a reasonable accommodation?*

A: In addition to owners' affirmative obligations to operate their properties in a nondiscriminatory manner and the requirements to make properties physically accessible to persons with disabilities, owners must also consider requests for reasonable accommodations from applicants and tenants with disabilities.

A reasonable accommodation is a change, adaptation, or modification to a program, service, building, unit, or workplace that will allow a qualified person with a disability to participate fully in a program, take advantage of a service, live in a unit, or perform a job.

If providing a requested accommodation would result in an undue financial and administrative burden to the property, the owner must take any other action that would not result in an undue burden.

For additional information on reasonable accommodations, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 2, Section 3, Subsection 4**, which includes specific information on the following additional topics:

- Reasonable accommodations in property operations;
- Reasonable accommodations in physical alterations; and
- Undue financial and administrative burden.

Q: Do owners have to allow tenants to make reasonable modifications to their units?

A: Under the Fair Housing Act, a person with a disability has the right to make reasonable modifications to any part of his or her unit or the related common areas at his or her own expense. Under certain circumstances, owners may impose the condition that when vacating the unit, the tenant will restore the unit to the state that existed before the modification was made.

For additional information on allowing tenants to make reasonable modifications to their units, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 2, paragraph 2-46.**

Q: How should a property owner handle a housing discrimination complaint?

A: Anyone who believes that he or she has been subject to discriminatory treatment from the owner of a particular property may file a housing discrimination complaint.

For information on what owners should do if an applicant or tenant indicates that he or she wants to file a housing discrimination complaint, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 2, Section 4** and contact the HUD Office of Fair Housing and Equal Opportunity in the Area Office responsible for the location in which the complaint occurred.

V. DETERMINING INCOME AND CALCULATING RENT

This section describes:

- Determining income for eligibility purposes;
- Rules for considering assets and computing income from assets;
- Allowable adjustments to income;
- How medical expenses are treated when calculating income;
- Income and expense verification methods; and
- Calculating rents.

Q: How does the owner determine income for eligibility purposes?

A: Annual income is the amount of income that is used to determine a family's eligibility for assistance. Annual income includes all amounts that are not specifically excluded by regulation. Annual income includes any amounts derived during the 12-month period from assets to which any member of the family has access. **Please refer to HUD Handbook 4350.3 Rev-1, Chapter 5, Exhibit 5-1, Income Inclusions and Exclusions**, for a list of income inclusions and exclusions published in the regulations and *Federal Register* notices.

The requirements for determining whether a family is eligible for assistance, and the amount of rent the family will pay, require the owner to project or estimate the annual income that the family expects to receive. There are several ways to make this projection. The following are two acceptable methods for calculating annual income anticipated for the coming year:

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- Generally, the owner must use current circumstances to anticipate income. The owner calculates projected annual income by annualizing current income. Income that may not last for a full 12 months (e.g. unemployment compensation) should be calculated assuming that current circumstances will last a full 12 months. If changes occur later in the year, an owner must conduct an interim recertification to determine if a change is required in the family's rent.
 - If information is available on changes expected to occur during the coming year, the owner should use that information to determine the total anticipated income from all known sources during the year. For example, if a verification source reports that a union contract calls for a 2% increase midway through the year, the owner may add the total income for the months before and the total for the months after the increase.

Determining income for tenant eligibility involves a very specific set of rules. For complete information on determining annual income for tenant eligibility, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 5, paragraph 5-6.**

Q: What are the rules for considering assets and computing income from assets?

A: Assets are items of value that may be converted into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is income from that asset. Some individuals have assets that are not earning interest. If an applicant has savings, but the funds are not kept in an interest bearing account, the property owner must impute income from this asset. Some belongings are not considered assets. Necessary personal property is not counted as an asset. For a summary of items that are considered assets and those that are not, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 5, Exhibit 5-2.**

The calculation to determine the amount of income from assets to include in annual income considers both of the following:

- The total cash value of the family's assets; and
- The amount of income those assets are earning or could earn.

For specific information on calculating income from assets, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 5, paragraph 5-7.**

Q: What are allowable adjustments to income?

A: There are five possible deductions that owners may subtract from annual income based on allowable family expenses and family characteristics. The remainder, after these deductions are subtracted, is called adjusted income. Adjusted income is generally the amount upon which rent is based.

Of the five possible deductions, three are available to any family living in a HUD-subsidized unit and two are permitted only for elderly and disabled families. The three types of deductions available to any family in a subsidized unit are:

- A deduction for dependents;
- A childcare deduction; and
- A disability assistance deduction.

The two types of deductions permitted only for families in which the head or spouse is elderly or disabled are:

- A deduction for unreimbursed medical expenses; and
- An elderly/disabled family deduction.

For detailed information on how to determine the allowable amounts for the adjustments listed above and calculate adjusted income, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 5, Section 2.**

Q: How are medical expenses treated in the annual income calculation?

A: In general, owners calculate applicant and tenant medical expenses based on expenses anticipated to occur during the 12-month period following an annual certification/recertification. However, in addition to anticipated expenses, past, one-time, nonrecurring medical expenses may be included in the calculation of the medical expense deduction. These expenses may be included in the family's total medical expenses by either:

- Requesting an interim recertification at the time the expense occurs; or
- Waiting until the upcoming annual recertification.

For additional information on handling nonrecurring medical expenses when determining adjusted income, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 5, paragraph 5-10.**

Q: Do owners have to verify annual income and expenses? What are acceptable income and expense verification methods?

A: Owners must verify all income, assets, expenses, deductions, family characteristics, and circumstances that affect family eligibility or level of assistance. Applicants and adult family members must sign consent forms to authorize the owner to collect information to verify eligibility and income. Applicants and tenants who do not sign required consent forms may not receive assistance. Family members six years of age or older must provide the owner with a complete and accurate social security number.

Any information obtained by owners for purposes of verifying eligibility or income must be handled in accordance with the federal Privacy Act requirements.

Owners must conduct verifications prior to an applicant's initial move-in, as part of the annual tenant recertification process, and when conducting an interim recertification for changes in household income or composition.

Owners may verify information through the types of methods listed below. These methods are listed in order of acceptability, and third-party verification is the preferred method.

- Third-party verification;
- Reviewing documents submitted by the applicant or tenant; or

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- Family certification.

For additional information on income and expense verification methods, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 5, Section 3 and Appendix 3**. This section of Chapter 5 also contains specific information on the following additional topics:

- Required verification and consent forms;
- Social security and supplemental security income data match;
- The effective term of verifications;
- Documenting verifications;
- Confidentiality of applicant and tenant information; and
- Required record keeping.

Q: *What are the procedures for calculating tenant rents?*

A: Owners must calculate tenant rents in HUD-subsidized housing based on the type of property and whether the tenant has project-based rental assistance. For instance, the owner calculates rents for Section 236 properties differently than for Section 221(d)(3) Below Market Interest Rate (BMIR) properties. Likewise, the formula for total tenant payment (TTP) for tenants receiving project-based Section 8, PAC, PRAC, and RAP assistance differs from the formula for tenants receiving assistance under the Rent Supplement program. Further, Section 236 and Section 221(d)(3) BMIR properties can also have rental assistance contracts, and then must follow the rent formula for the corresponding rental assistance program. This adds another layer of complexity to the rent calculation process.

For specific information on the formulas for calculating rents for different types of properties and properties with overlapping assistance, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 5, Section 4 and Exhibit 5-9**. In addition, rent calculation formulas are available on HUD's Fact Sheets for Project-Based Assistance Programs" available on HUD's Website at <http://www.hud.gov/offices/hsg/mfh/hsgrent.cfm> or Appendix 14 of this Handbook.

VI. LEASE REQUIREMENTS AND LEASING ACTIVITIES

This section describes:

- Required leases;
- Required lease provisions;
- Lease terms;
- Requirement for reasonable house rules;
- Pet rules;
- Security deposit amounts;
- Allowable charges in addition to rent; and
- The leasing process.

Q: *What leases are used for tenants in HUD-subsidized projects?*

A: The type of lease an owner of a HUD-subsidized multifamily property should use depends on the type of property. HUD provides four model leases for owner use in HUD-subsidized properties. These are as follows:

- Model Lease for Subsidized Programs (Family Model Lease);
- Model Lease for Section 202 with a HAP Contract or Section 202 with a Project Assistance Contract;
- Model Lease for Section 202 with a Project Rental Assistance Contract; and
- Model Lease for Section 811 with a Project Rental Assistance Contract.

Each lease has required attachments, commonly used attachments, and varying initial and renewal terms. Furthermore, HUD prohibits owners from using certain specific provisions in leases for HUD subsidized housing.

Among the four leases, owners may modify only the Family Lease and cannot do so without approval of the appropriate HUD Field Office or Contract Administrator*.

*Note: Currently, Contract Administrators do not have the authority to approve lease modifications.

For information about the four model leases and their provisions, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 6, Section 1.**

Q: Does HUD require certain lease provisions?

A: The family lease has nine required provisions that owners may not modify. For information on these specific provisions, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 6, paragraph 6-5.**

Q: Does HUD require specific lease terms? If so, what are they?

A: The initial and renewal lease terms for HUD-subsidized properties depend on the type of property and, if applicable, the type of rental assistance contract the property has. For a checklist that includes the type of property and the required initial and renewal terms, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 6, Figure 6-3.**

Q: What guidance does HUD provide for house rules?

A: Developing a set of house rules is a good practice. By identifying allowable and prohibited activities in housing units and common areas, owners provide a structure for treating tenants equitably and for making sure that tenants treat each other with consideration. House rules are also beneficial in keeping the property safe and clean and making it more appealing and livable for the tenants.

The decision about whether to develop house rules for a property rests solely with the owner, and HUD's review and approval is not required. If developed, the house rules need to be consistent with HUD requirements for operating HUD subsidized projects. In addition, owners must take care not to develop restrictive rules that limit the freedom of the tenants.

For information on reasonable and unreasonable house rules, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 6, paragraph 6-9.**

Q: What is HUD's policy on pets?

A: By statute, HUD has established a set of specific pet regulations that applies only to housing for the elderly and persons with disabilities. Under these regulations, owners must not prohibit tenants in such housing from having common household pets in the tenants' units or discriminate against tenants based on their ownership of a pet.

Pet rules help maintain a decent, safe, and sanitary living environment for the tenants in a property, through the development of guidelines on the registration and inoculation of pets, the sanitary disposal of waste, and the restraint of pets while in common areas. However, owners must not apply house pet rules to assistive (service) animals.

For additional information on pet rules, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 6, paragraph 6-10.**

Q: What is the amount of the security deposit that the owner may collect from the tenant?

A: The amount of security deposit that an owner collects from a tenant depends on the program type of the particular property. For a list of amounts owners are to collect from tenants by property type, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 6, Figure 6-6.** For additional information on security deposits, **please refer to Chapter 6, Section 2**, which contains information on the following additional topics:

- Security deposits for tenants transferring to another unit;
- Interest earned on the security deposit; and
- Refunding and use of the security deposit.

Q: Can an owner charge tenants fees in addition to rent?

A: Under certain circumstances, owners of certain vHUD-subsidized multifamily housing may charge tenants for items other than rent. Some of these items include:

- Charges for late payment of rent;
- Pet deposits; and
- Fees for damage caused by a tenant's carelessness, misuse, or neglect.

For specific information on allowable charges in addition to rent, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 6, Section 3.**

Q: What guidance does HUD provide on the leasing process?

A: The leasing process in HUD-subsidized multifamily housing generally includes the following:

- A briefing of new residents (which is something that HUD recommends);

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- Notification to tenants about the type of payment the owner accepts (HUD mandates what form of payment owners can request); and
 - Move-in and move-out inspections (which HUD requires all owners to complete).

For specific information on the items listed above, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 6, Section 4.**

VII. RECERTIFICATIONS, UNIT TRANSFERS, AND GROSS RENT CHANGES

This section describes:

- Recertification requirements;
- The recertification timeline;
- Require notifications to the tenant;
- Requirements for conducting interim recertifications;
- Tenant failure to recertify;
- Unit transfers; and
- Gross rent changes.

Q: What are the basic requirements for recertifying tenant income?

A: Owners must conduct a recertification of family income and composition at least annually. Based on the information gathered, owners must then recompute tenants' rents, if applicable. Tenants must supply information requested by the owner or HUD for use in the recertification process. Tenants must sign consent forms so that the owner can verify annual income and other factors.

Owners do not have to perform annual recertifications for individuals who are paying market rent.

For specific information on recertification requirements, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 7, paragraph 7-4.**

Q: What is the timeline for the recertification process?

A: Owners must complete annual recertifications by the tenants' anniversary date. The owner is responsible for processing all recertifications in a timely manner.

The time deadlines for notices to tenants regarding recertifications are very specific. The Handbook presents a detailed recertification timeline with an example. For specific information about the recertification timeline, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 7, paragraph 7-6,** and also **Figure 7-2.**

Q: Are there requirements for notifying tenants about upcoming recertifications?

A: Owner must inform tenants, through written notices, about the tenants' responsibility to provide information about the changes in family income or composition necessary to properly complete an annual recertification. These notices include information on the recertification process, requirements, and timelines.

For information on the required notices, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 7, paragraph 7-7 and Exhibits 7-1, 7-2, 7-3, and 7-4.**

Q: *Are owners required to certify interim changes in family income and/or composition?*

A: To ensure that assisted tenants pay rents commensurate with their ability to pay, tenants must notify owners of changes in family income or composition that occur between annual certifications. Tenants must supply information requested by the owner or HUD for use in an interim recertification of family income and composition.

Owners must process an interim recertification if a tenant reports:

- A change in family composition;
- A cumulative increase in monthly family income of \$200 or more;
- An increase in allowances (e.g., number of dependents);
- A decrease in family income (except under the circumstances noted in the Handbook); and
- A change in citizenship or eligible immigration status of any family members.

For additional information on interim recertifications, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 7, Section 2.**

Q: *What must owners do when a tenant fails to recertify?*

A: When a tenant fails to provide the necessary recertification information by the required deadlines, the owner **must** charge the tenant the market rent for the unit.

In a Section 202 PRAC or 811 PRAC project, the tenant will pay the greater of operating rent or 30% of income until eviction procedures are completed.

For specific information on the requirements when a tenant fails to recertify, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 7, paragraph 7-8 and Chapter 8, Section 1.**

Q: *What guidance does HUD provide on transferring tenants to different units?*

A: If an owner determines that a tenant's current dwelling unit is smaller or larger than appropriate as a result of a change in a tenant's family size or composition, the owner must decide whether to require the tenant to transfer to another unit. Owners must not reduce or terminate the assistance payment associated with the original unit until the family has been offered a transfer to a unit of appropriate size and has been given at least 30 days to move to the new unit.

For additional information on unit transfers, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 7, Section 3.**

Q: *What are the requirements regarding changes in gross rents?*

A: A gross rent change may occur due to a rent change only, a change in the utility allowance only, or a change in both the rent and the utility allowance. Owners must comply with the tenant comment and posting procedures described in HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*.

Owners must submit requests for rent increases to HUD or the Contract Administrator following the submission requirements described in HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing* or The Section 8 Contract Renewal Policy Guide for rent adjustments if the Section 8 contract has been renewed pursuant to the Multifamily Assisted Housing Reform and Affordability Act (MAHRA).

VIII. TERMINATION OF SUBSIDY AND TENANCY

This section describes:

- Rules for terminating a tenant's subsidy;
- Reinstating tenant assistance;
- Termination of tenancy by the lessee;
- Circumstances under which owners may terminate a tenant's lease;
- Lease termination notice procedures; and
- Addressing errors, discrepancies, and fraud.

Q: *When must a tenant's subsidy be terminated?*

A: As stated above in Section 7, an owner must terminate a tenant's subsidy if the tenant fails to recertify. For additional information on requirements for terminating rental assistance, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 8, paragraph 8-5.**

Termination of assistance is not applicable to Section 202 PRAC and Section 811 PRAC properties

Q: *May an owner reinstate assistance for a tenant whose subsidy was terminated?*

A: An owner may reinstate a tenant's terminated assistance if the tenant, after failing to recertify during the required time frame, later provides the required information. For a list of the criteria under which an owner may reinstate a tenant's assistance, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 8, paragraph 8-6.**

Q: *What procedures must a tenant follow to terminate his or her lease?*

A: In order to terminate tenancy in a HUD-subsidized multifamily property, the tenant must provide the owner with a 30-day written notice, as required by the HUD lease.

For information on the consequences of a tenant's failure to provide the owner with proper notice, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 8, Section 2.**

Q: *Under what circumstances may owners terminate tenancy?*

A: Owners of HUD-subsidized multifamily properties may terminate tenancy for one of the following reasons:

- Material noncompliance with the lease, including:
 - Substantial lease violations;
 - Fraud;
 - Repeated minor violations; and
 - Nonpayment of rent;
- Drug abuse and other criminal activity;
- Material failure to carry out obligations under a State Landlord and Tenant Act; and
- Other good cause.

For information on terminating tenancy for the reasons cited above, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 8, Section 3.**

Q: *What procedures must owners follow to notify tenants of lease termination?*

A: To terminate tenancy, an owner must establish that the basis for the termination is consistent with HUD-required lease provisions, allowable lease provisions, and applicable State and local laws. If an owner proposes to terminate a lease, the owner must give the tenant written notice of the proposed termination.

For specific information on required notice procedures for termination of tenancy, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 8, paragraph 8-13 B.**

Q: *What guidance does HUD provide on addressing discrepancies, errors, and fraud?*

A: To promote income and rent integrity, owners must investigate and research discrepancies and possible errors. Owners should determine if a discrepancy is caused by tenant error or property staff error. In addition, the owner should determine if the error is:

- A program violation – a breach of the lease, a regulation, or other program requirement; or
- A criminal violation – fraud, or an intentional deception.

Some investigations may lead to the discovery of efforts by tenants or other parties to mislead the owner and to commit fraudulent acts that result in the receipt of benefits or rent subsidies for which the tenant is not eligible.

For a description of the procedures owners should use to address discrepancies, errors, and fraud, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 8, Section 4.**

IX. REQUIRED 50059 AND SUBSIDY DATA REPORTING

This section describes:

- The Tenant Rental Assistance Certification System (TRACS);

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- Owners' responsibilities for reporting under TRACS; and
 - Payments from HUD to the property.

Q: *What is TRACS?*

A: The Tenant Rental Assistance Certification System (TRACS) was developed to help improve financial controls over assisted housing programs. TRACS collects certified tenant data and subsidy payment vouchers from owners and management agents of multifamily housing projects – either directly from the owners, from organizations acting as subsidy Contract Administrators for HUD, or from service providers who are paid by the project or Contract Administrator to collect, calculate, complete, and submit the data to TRACS on their behalf. HUD Field Offices maintain data on subsidy contracts and contract funding.

Q: *What are owners' responsibilities for submitting information through TRACS?*

A: Owners of all properties covered by HUD Handbook 4350.3 Rev-1 are responsible for processing tenant certifications, recertifications, and subsidy billings via automated software conforming to HUD specifications.

Owners are responsible for the electronic submission of the following HUD requirements and forms. A separate submission must be prepared and submitted for each of the property assistance contracts.

50059 Data Requirements. For information on 50059 data requirements, please refer to HUD Handbook 4350.3 Rev-1, Appendices 6, 7, and 8.

- Form HUD-52670, Housing Owner's Certification & Application for Housing Assistance Payments. Data submitted from form HUD-52670 must be properly supported by:
 - Form HUD-52670A, Part 1, *Schedule of Tenant Assistance Payments Due*;
 - Form HUD-52670A, Part 2, *Schedule of Section 8 Special Claims*; and
 - Form HUD-52671A through D, *Special Claims Worksheets*.

Owners are responsible for electronic transmission of the required data to their respective Contract Administrator. The Contract Administrator is the entity that issues subsidy payments for the assistance contract.

For specific information about the procedures that owners should use for electronic reporting of subsidy data, **please refer to HUD Handbook 4350.3 Rev-1, Chapter 9, Section 1.**

Q: *What guidance does HUD provide on obtaining payments from HUD to the property, such as assistance payments and special claims?*

A: HUD Handbook 4350.3 Rev-1, Chapter 9, Section 2 provides information about:

- The procedures that owners must follow to receive assistance payments from HUD for the property.

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- When and how owners may bill HUD for special claims: including tenant damages, unpaid tenant rent, vacancy losses, and debt service. This section also describes the procedures owners must follow to file a special claim.
 - The rules and procedures for handling utility reimbursements. It explains circumstances under which owners must give tenants utility reimbursements.
 - The requirements and procedures that owners of Section 236 properties must follow to report and remit or retain excess income (i.e., amounts the property receives when a tenant's rent payment is in excess of the basic rent for the unit).

X. OTHER SOURCES OF INFORMATION

This section lists additional sources of information for property owners and managers, including:

- HUD's website at <http://www.hud.gov>.
- **HUD Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs***, available on <http://www.hudclips.org>, or by calling HUD at 1-800-767-7468 or faxing a request to 1-202-708-2313.
- HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*, available on <http://www.hudclips.org>, or by calling HUD at 1-800-767-7468 or faxing a request to 1-202-708-2313.
- Local HUD Field Offices at <http://www.hud.gov/local/index.cfm>
- HUD's National Multifamily Housing Clearinghouse at 1-800-685-8470.
- HUD toll-free number for information on what constitutes housing discrimination at 1-800-669-9777, or Office of Fair Housing and Equal Opportunity staff in the local HUD Field Office
- HUD's *Resident Rights & Responsibilities* brochure, available on HUD's website at <http://www.hud.gov/offices/hsg/mfh/gendocs/mfhrrr.pdf>, or by calling HUD at 1-800-767-7468 or faxing a request to 1-202-708-2313.

Please refer to HUD Handbook 4350.3 Rev-1, Chapter 1, paragraph 1-7 for additional informational resources.