



December 2015



BREAKING NEWS

HUD Publishes Section 8 Renewal Guide FAQs

HUD has released a list of [Frequently Asked Questions \(FAQs\)](#) they received in response to the new Section 8 Renewal Policy Guide. The document currently contains responses to 47 different questions posed. The majority of the questions were focused on changes made in Chapters 2, 3, and 15. Via a recent RHIP Listserv announcement, HUD indicated that they anticipate receiving additional questions for which the responses will be incorporated into the FAQ document at a later date.

Additional questions about the Policy Guide can be emailed to section8renewalguide@hud.gov. If you have an immediate question about how this Guide impacts your property's renewal, you can also contact your Account Executive at your local HUD Office or your assigned Contract Administrator for additional guidance.

No Social Security Cost Of Living Adjustment (COLA) for 2016

Recently, the Social Security Administration announced there will not be an automatic COLA increase for Social Security or Supplemental Social Security benefit recipients in 2016. To read this announcement and more information about COLA increases, click [here](#) to be redirected to the official Social Security Administration website.

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INDUSTRY NEWS

HUD Amends the Definition of Tuition

On November 18, 2015, HUD published a joint notice under [Notice PIH 2015-21: Amendment to the Definition of Tuition](#). The Notice is effective immediately.

In this Notice, HUD formally amends the definition of tuition found in *Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance* (71 FR 18146, appendix A). **The new definition will be used in both Multifamily Housing and Public and Indian Housing (PIH) programs.**

Tuition is now defined as the amount of money charged to students for instructional services which may be charged per term, per course, or per credit **plus required fees**. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Other expenses related to attending an institution of higher education are **not** to be included as tuition. These expenses include books, supplies, room and board, meal plans, transportation and parking, student health insurance plans, and other non-course related fees.

While the amended definition of tuition is applicable to all HUD programs, specific program rules governing the calculation of annual income from financial assistance in excess of tuition have **not** changed. So, what does that mean to Owners?

- Owners **must** identify if they have any certifications in process for households with students, for which tuition costs must be recalculated using the newly expanded definition.
- Owners **must** revise applicable verification forms sent to institutions of higher learning so that all applicable tuition, fees, and charges can be appropriately verified.
- **Section 8 Owners only** – When using the new definition of tuition, the amount of tuition will likely increase, meaning the amount the individual receives in excess of tuition will likely **decrease** when determining annual income. **24 CFR § 5.609(b)(9)**
- Income calculation methodologies for other program types (Public Housing, PRACS, RAP, etc.) will not change, as the full amount of financial assistance a student receives is **excluded** from annual income. **24 CFR § 5.609(c)(6)**

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HUD Publishes Owner Toolkit for Implementing a Homeless Preference

Ending homelessness is a nationwide initiative that has played an active role in shaping HUD's executive agenda in recent years. In July 2013, HUD issued Notice H 2013-21 [Implementation and approval of owner-adopted admissions preferences for individuals or families experiencing homelessness](#).

To further assist Owners in implementing these preferences, HUD has published a PDF document that they refer to as [a toolkit](#) to assist them in:

- Creating an implementation team;
- Facilitating community involvement;
- Utilizing available resources; and
- Partnering with community service providers to ensure successful implementation of a homelessness preference.

Multifamily property owners may contact their HUD Field Office Account Executive (formally known as their Project Manager) with any questions about implementing a preference at their properties.

INDUSTRY NEWS

HUD Issues Guidance to Owners on Excluding the Use of Arrest Records in Housing Decisions

On November 2, 2015, HUD issued *Housing Notice H 2015-10: Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions*.

After reading the title, many in the industry might assume this Notice was a major game-changer, modifying established regulations governing criminal screening practices. However, once you read the notice in its entirety, you will discover that is **not** the case.

The Notice highlights some important distinctions and clarifications:

1. Owners **cannot** rely solely on arrest records as the basis for denying admission or terminating assistance/evicting tenants. In essence, HUD is reminding Owners that there is a difference between being arrested and being convicted and that all those accused of criminal activity should be afforded due process in the judicial system.
Although a record of arrest(s) may **not** be used to deny a housing opportunity, PHAs and owners may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the PHA or owner has sufficient evidence, other than the fact of arrest, that the individual engaged in the conduct. The conduct, **not** the arrest, is what is relevant for admission and a tenancy decision.
2. PHAs or Owners are **not** required to adopt "One Strike" policies that deny admission to anyone with a criminal record or that require automatic eviction any time a member engages in criminal activity in violation of their lease. In fact, depending on the specific housing program, Owners have some discretion to make determinations based on the severity of the crime, the impact an eviction may have on other family members, and the options the household may have to mitigate the issue.
3. Federal regulations regarding mandatory screening and/or eviction for drug-related criminal activity and state registered lifetime sex offenders remain in place. This Notice did **not** change those prevailing requirements.
4. The applicant appeal process remains the same specific to their opportunity to dispute before and after the denial of the application. Owners should be sure their denial letters include the required appeal language.

While Owners in the industry recognize the spirit of this Notice, they are also tasked with balancing the risks involved with admitting individuals with specific types of criminal history with ensuring the safety of all residents at the property. To help achieve this balance, the Notice does provide best practices and peer examples for PHAs and owners to review and consider.

Regardless of the level of discretion an owner chooses to exercise, they **must** ensure their selection policy and the procedures their staff follows are consistent and comply with civil rights requirements, fair housing regulations, and federal regulations.

To view this notice, please click [here](#). In addition to this notice issued by the Office of Housing, HUD's Office of Public and Indian Housing released a [similar notice](#) on this guidance as it applies to other programs.

Please be advised that any specific questions regarding the legal basis for making a housing determination for your property should be directed to your legal counsel.