

## § 5.400

SOURCE: 61 FR 5665, Feb. 13, 1996, unless otherwise noted.

### § 5.400 Applicability.

This part applies to public housing and Section 8 programs.

[61 FR 5665, Feb. 13, 1996, as amended at 65 FR 16715, Mar. 29, 2000]

### § 5.403 Definitions.

*Annual contributions contract (ACC)* means the written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

*Applicant* means a person or a family that has applied for housing assistance.

*Disabled family* means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

*Displaced family* means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief

*Elderly family* means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

*Family* includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

(1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or

(2) A group of persons residing together, and such group includes, but is not limited to:

(i) A family with or without children (a child who is temporarily away from the home because of placement in fos-

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ter care is considered a member of the family);

(ii) An elderly family;

(iii) A near-elderly family;

(iv) A disabled family;

(v) A displaced family; and

(vi) The remaining member of a tenant family.

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(1) Is determined to be essential to the care and well-being of the persons;

(2) Is not obligated for the support of the persons; and

(3) Would not be living in the unit except to provide the necessary supportive services.

*Near-elderly family* means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

*Person with disabilities:*

(1) Means a person who:

(i) Has a disability, as defined in 42 U.S.C. 423;

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration;

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability as defined in 42 U.S.C. 6001.

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;

(3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

(4) Means "individual with handicaps", as defined in § 8.3 of this title,

for purposes of reasonable accommodation and program accessibility for persons with disabilities.

[61 FR 5665, Feb. 13, 1996, as amended at 63 FR 23853, Apr. 30, 1998; 65 FR 16715, Mar. 29, 2000; 77 FR 5674, Feb. 3, 2012]

### Subpart E—Restrictions on Assistance to Noncitizens

AUTHORITY: 42 U.S.C. 1436a and 3535(d).

#### § 5.500 Applicability.

(a) *Covered programs/assistance.* This subpart E implements Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 prohibits HUD from making financial assistance available to persons who are not in eligible status with respect to citizenship or non-citizen immigration status. This subpart E is applicable to financial assistance provided under:

(1) Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program);

(2) Section 236 of the National Housing Act (12 U.S.C. 1715z-1) (tenants paying below market rent only) (the Section 236 Program);

(3) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program); and

(4) The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) which covers:

- (i) HUD's Public Housing Programs;
- (ii) The Section 8 Housing Assistance Programs; and
- (iii) The Housing Development Grant Programs (with respect to low income units only).

(b) *Covered individuals and entities*—(1) *Covered individuals/persons and families.* The provisions of this subpart E apply to both applicants for assistance and persons already receiving assistance covered under this subpart E.

(2) *Covered entities.* The provisions of this subpart E apply to Public Housing Agencies (PHAs), project (or housing) owners, and mortgagees under the Section 235 Program. The term "responsible entity" is used in this subpart E to refer collectively to these entities, and is further defined in § 5.504.

#### § 5.502 Requirements concerning documents.

For any notice or document (decision, declaration, consent form, etc.) that this subpart E requires the responsible entity to provide to an individual, or requires the responsible entity to obtain the signature of an individual, the responsible entity, where feasible, must arrange for the notice or document to be provided to the individual in a language that is understood by the individual if the individual is not proficient in English. (See 24 CFR 8.6 of HUD's regulations for requirements concerning communications with persons with disabilities.)

#### § 5.504 Definitions.

(a) The definitions *1937 Act*, *HUD*, *Public Housing Agency (PHA)*, and *Section 8* are defined in subpart A of this part.

(b) As used in this subpart E:

*Child* means a member of the family other than the family head or spouse who is under 18 years of age.

*Citizen* means a citizen or national of the United States.

*Evidence of citizenship or eligible status* means the documents which must be submitted to evidence citizenship or eligible immigration status. (See § 5.508(b).)

*Family* has the same meaning as provided in the program regulations of the relevant Section 214 covered program.

*Head of household* means the adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

*Housing covered programs* means the following programs administered by the Assistant Secretary for Housing:

(1) Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program);

(2) Section 236 of the National Housing Act (12 U.S.C. 1715z-1) (tenants paying below market rent only) (the Section 236 Program); and

(3) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program).

*INS* means the U.S. Immigration and Naturalization Service.

*Mixed family* means a family whose members include those with citizenship