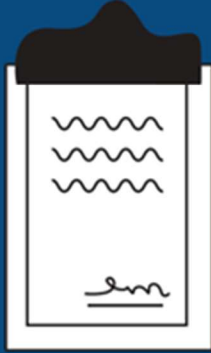


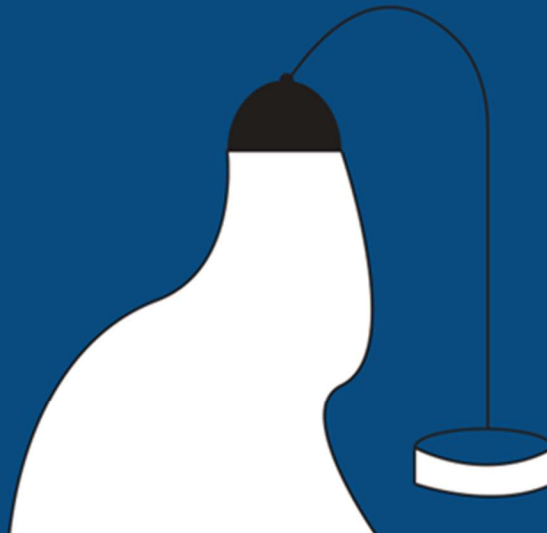


US Housing
CONSULTANTS



ELIGIBILITY ESSENTIALS:

Conquering Student Eligibility



ELIGIBILITY ESSENTIALS:

Table of Contents

Course Content	Page #
Overview of Student Eligibility	1
Low-Income Housing Tax Credit (LIHTC)	2
• Full-Time Student Defined.....	3
• Educational Organization Defined.....	4
• Full-Time Student Household Exceptions.....	4
• Individual Student Exceptions.....	5
• Household Student Exceptions.....	6
• HFA Requirements & Interpretations.....	8
• Evaluating Student Status.....	9
• LIHTC/HUD-Assisted Programs.....	9
Housing and Urban Development (HUD)	11
• Step 1. Determine if the Student Rules Apply to the Household.....	12
• Step 2. Determine if the Student is “Independent”.....	13
• Step 3. If the Student is not “Independent”, Determine if the Student and the Parent(s)/Guardian(s) Are Income Eligible.....	14
○ Consider the Following.....	14
○ Parents Defined.....	14
• Monitoring of Student Eligibility for Section 8 Assistance.....	15
○ Section 8 Student Rules Checklist.....	16
○ Section 8 Student Flow Chart.....	17
• HUD Non-Section 8 Student Eligibility.....	19
○ Eligibility of Students for Other Assistance Programs.....	19
Rural Development (RD)	20
• RD Section 515 – Student Eligibility.....	21
HOME Investment Partnerships Program (HOME)	22
• HOME Program – Student Eligibility.....	23
Student Financial Assistance	24
• Unearned Income: Student Financial Assistance.....	25
○ Section 8 Recipients.....	25
▪ Section 8 Student Financial Assistance Flowchart.....	27
○ Non-Section 8 Recipients.....	28
▪ Non-Section 8 Student Financial Assistance.....	31

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Note: There may be areas of the manual that will not be covered during the allotted time and the information is supplied as supplemental information.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

Overview of Student Eligibility

Complying with Layered Student Rules

In order to build affordable housing, developers will often finance projects leveraging funds from multiple affordable housing programs.

Common housing programs include:

- Low-Income Housing Tax Credit Program (LIHTC)
- Housing and Urban Development Multi-Family Housing (HUD MFH)
- Rural Development (RD)
- HOME Investment Partnerships Program (HOME)

While layering different programs is a great way to ensure project feasibility, it creates some compliance challenges as these programs are not identical in their rules and regulations regarding the administration of the programs, as well as the determination of eligible tenants.

Every housing program mentioned above has eligibility rules regarding students.



National Housing Trust Fund (NHTF) – Student Eligibility

The National Housing Trust Fund (NHTF) Program does not have any student eligibility requirements.

Maintaining Compliance with Layered Programs

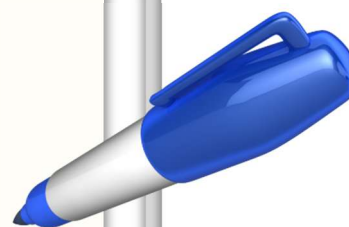
If an LIHTC project is layered with HUD, RD, or HOME funds students must meet **BOTH** the LIHTC student rules **AND** the HUD, HOME or RD student rules in order to maintain compliance with all the individual program requirements that are applicable to the project.

Student Eligibility

Project is layered with:

- ☒ LIHTC
- ☒ HUD Section 8
- ☐ Rural Development
- ☐ HOME
- ☐ Housing Trust Fund

In this case, the student must meet both sets of rules in order to move-in to an LIHTC/Section 8 unit.



ELIGIBILITY ESSENTIALS: Low-Income Housing Tax Credit (LIHTC)



ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

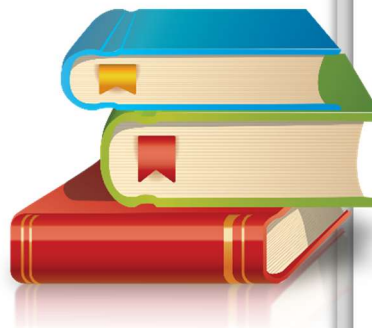
References & Notes

LIHTC – Student Eligibility

In order for a household to be eligible to occupy a Low-Income Housing Tax Credit (LIHTC) unit, the household must meet the LIHTC program's student eligibility requirements.

A household comprised entirely of all **full-time students (of any age)** who attend school at an educational organization is not eligible to occupy an LIHTC unit unless the household meets **one of the five (5) exceptions**.

If the household contains one member who is not a full-time student, the household is not considered a full-time student household.



§ 42(i)(3)(D)

8823 Guide Chapter 17

Full-Time Student Defined

A full-time student is a student who attends school full-time for **all or parts of any five (5) months** out of the calendar year in which the taxable year of the taxpayer begins. One day is considered "part of a month." Months do not need to be in consecutive order.

§ 152(f)(2)(D)

Treas. Reg. 1.151(3)(b)

The assessment of whether a student is determined to be full-time or part-time is determined by the educational organization.

EXAMPLE #1 – STUDENT CALENDAR

Luke started attending college full-time in August of 2023 and attended full time each month until he graduated on May 25, 2024.

If Luke applied for an LIHTC unit on September 19, 2024, he would still be considered a full-time student as he attended full-time for all or parts of any five (5) months out of the calendar year.

Luke would no longer be considered a full-time student at the beginning of the next calendar year.

EXAMPLE #2 – STUDENT CALENDAR

Shae started attending college full-time on January 31, 2024, and attended full-time for the months of February and March. Shae took April and May to celebrate her spring break but she started back to college full-time on June 6, 2024, where she continued her education until she graduated on July 14, 2024.

If Shae applied for an LIHTC unit on October 7, 2024, she will still be considered a full-time student as she attended full-time for all or parts of any five (5) months out of the calendar year.

Shae would no longer be considered a full-time student at the beginning of the next calendar year.



Three important questions to assist in determining student eligibility:

1. Were you or any members of your household a full-time student in the **past** 12 months?
2. Are you or any members of your household **currently** a full-time student?
3. Will you or any members of your household be a full-time student in the **next** 12 months?

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

§ 170(b)(1)(A)(ii)
8823 Guide/ 17-1

LIHTC – Student Eligibility, cont.

Educational Organization Defined

The IRS defines an educational organization to be “an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.”

This definition includes:

- ✓ Elementary Schools
- ✓ Junior High Schools (Middle Schools)
- ✓ High Schools
- ✓ Colleges
- ✓ Universities
- ✓ Technical Schools
- ✓ Trade Schools
- ✓ Mechanical Schools

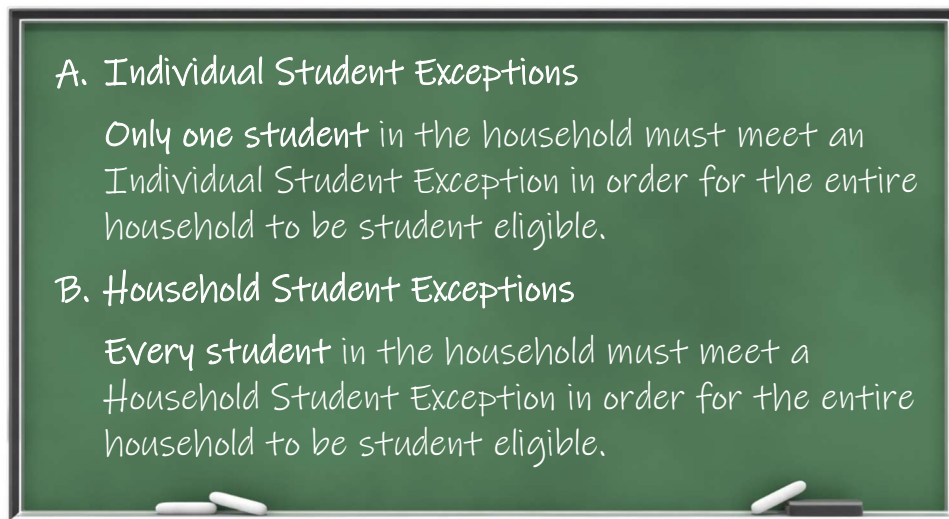
This definition does not include on-the-job training courses.



Full-Time Student Household Exceptions

A household comprised of all full-time students may still be eligible for occupancy if the household meets one of the five (5) exceptions.

These exceptions have been broken down into two (2) categories:



A. Individual Student Exceptions

Only one student in the household must meet an Individual Student Exception in order for the entire household to be student eligible.

B. Household Student Exceptions

Every student in the household must meet a Household Student Exception in order for the entire household to be student eligible.

It is very important to be aware that interpretations regarding the application of these exceptions can vary from state to state.

Please make sure to obtain information regarding student eligibility from each state Housing Finance Agency (HFA) for the states where you do business.

Each of the five (5) student exceptions are covered in detail on the following pages.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

LIHTC – Student Eligibility, cont.

Individual Student Exceptions

1. **A single household member receives** assistance under Title IV of the Social Security Act (i.e., **Temporary Assistance for Needy Families (TANF)**).

§ 42(i)(3)(D)(I)

Verification Documentation



Verify that the household member meets this exception by obtaining third-party verification from the paying agency or a copy of the individual's TANF benefit letter.

Example – TANF Exception

Denny (age 43) and his best friend, Gracie (age 36), and Gracie's daughter (age 13) are applying for an LIHTC unit. All household members are full-time students. Gracie receives TANF assistance.

In this example, since Gracie receives TANF and meets the 1st exception, the entire household is considered student eligible.

2. **A single household member was previously** under the care and placement responsibility of the state agency responsible for administering a plan under Part B or Part E of Title IV of the Social Security Act (i.e., **foster care**).

§ 42(i)(3)(D)(II)

This exception was added with the passing of the **Housing and Economic Recovery Act (HERA)**, enacted by President Bush on July 30, 2008. This exception became effective the day after enactment and only applies to eligibility determinations made after that date.

Example – Foster Care Exception

Rupert (age 27) and his roommate, Erin (age 23), are applying for an LIHTC unit. Both Rupert and Erin are full-time students. Erin was placed in state foster care at the age of 11 and remained under the state's care until the age of 18.

In this example, since Erin was formerly in the foster care system and meets the 2nd exception, the entire household is considered student eligible.

Verification Documentation



Verify that the household member meets this exception by obtaining third-party verification or other documentation from the placing agency (i.e., the Department of Human Services (DHS)).

3. **A single household member is enrolled** in a job training program receiving assistance under the **Job Training Partnership Act (JTPA)** or under other similar Federal, State, or local laws.

§ 42(i)(3)(D)(III)

Note: The Workforce Investment Act (WIA) replaced JTPA in 2000. WIA was replaced by the **Workforce Innovation and Opportunity Act (WIOA)** in 2014.

For a program to be considered similar to JTPA, it should have a similar mission statement and receive government funding.

Verification Documentation



Verify that the household member meets this exception by obtaining third-party verification or other documentation from the program that fully demonstrates the program is similar to JTPA.

Example – JTPA Exception

Leo (age 26) and his roommate, Ann (age 32), are applying for an LIHTC unit. Both Leo and Ann are full-time students. Ann participates in a program that is verified to be similar to JTPA.

In this example, since Ann participates in a program similar to JTPA and meets the 3rd exception, the entire household is considered student eligible.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

LIHTC – Student Eligibility, cont.

Household Student Exceptions

4. **All adult students are single parents with dependent child(ren).** In order to meet this exception, no household member (adult or child) can be claimed as a dependent by another individual, other than the parent of such child(ren) who does not live in the unit.

The text of this exception was modified to include “*other than the parent of such children*” as a result of the enactment of the Mortgage Forgiveness Debt Relief Act of 2007 on December 20, 2007. This change to the code is applied retroactively.

§ 42(i)(3)(D)(ii)(I)

Mortgage Forgiveness
Debt Relief Act of 2007

IRS Newsletter
#29/February 2008

Verification Documentation



Verify that all household members meet this exception by obtaining copies of tax returns, demonstrating the dependency of each household member (minors and adults).

If tax returns are not available, a signed affidavit attesting to the dependency status of all household members can be collected.

Example #1 – Single Parent/Dependent Child Exception

Joe is applying for an LIHTC unit with his 14-year-old daughter, Blair. Both Joe and Blair are full-time students. Joe provides his most recent tax return which demonstrates that Joe claims himself and his daughter as dependents.

In this example, since Joe (the only adult) is a single parent with a dependent child and since neither he nor Blair are claimed as a dependent by another individual, the household meets the 4th exception, and the entire household is considered student eligible.

Example #2 – Single Parent/Dependent Child Exception

Eddie and Rose are an unmarried couple applying for an LIHTC unit with their 9-year-old son, Ezra. Eddie, Rose, and Ezra are all full-time students.

In this example, the household contains both parents. Therefore, the household does not meet the “single parent/dependent child exception.”

Example #3 – Single Parent/Dependent Child Exception

Elaine is applying for an LIHTC unit with her 2 children, Zack (age 8) and Josiah (age 10). Elaine, Zack, and Josiah are all full-time students. Elaine provides a copy of her tax return which demonstrates that she claims herself and Josiah as dependents. Elaine also provides a copy of Zack’s father’s tax return which demonstrates Zack is claimed as a dependent by his father.

In this example, since Elaine is a single parent and no household member is claimed as a dependent by another individual, other than the parent of the child, this household meets the single parent/dependent child exception.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

LIHTC – Student Eligibility, cont.

Household Student Exceptions, cont.

5. All adult students are married and file a joint tax return. Per the 8823 Guide, a married couple that is entitled to file a joint tax return, but has not filed one, still satisfies this exception.

§ 42(i)(3)(D)(ii)(II)

8823 Guide / Page 17-2

IRS Newsletter #26,
September 2007

IRS Publication 501

Example – Married & Entitled to File Exception

Jeremiah and Jessie, a married couple, are applying for an LIHTC unit with Jeremiah's best friend Kaydence, who is not married. Jeremiah, Jessie, and Kaydence are all full-time students.

In this example, since not all adults are married (Kaydence is not married), this household does not meet the married and entitled to file exception.

Verification Documentation



Verify that all household members meet this exception by obtaining copies of marriage certificates or copies of tax returns.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

LIHTC – Student Eligibility, cont.

HFA Requirements & Interpretations

It is extremely important to check with your state HFA to make sure you are following your HFA's requirements and interpretations of the student exceptions. The reason for the differing interpretations is due to the guidance published in the 8823 Guide, which combined the text of the Tax Reform Act and the text from Section 42 of the Internal Revenue Code, resulting in muddled guidance.

Text from the Tax Reform Act of 1986

In no case is a unit considered to be occupied by low-income individuals if all of the occupants of such unit are students (as determined under sec. 151(c)(4)), no one of whom is entitled to file a joint income tax return.

§ 42 (i)(3)(d)

(D) Certain students not to disqualify unit. A unit shall not fail to be treated as a low-income unit merely because it is occupied—

(i) by an individual who is—

(I) a student and receiving assistance under title IV of the Social Security Act,

(II) a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act, or

(III) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

(ii) entirely by full-time students if such students are—

(I) single parents and their children and such parents are not dependents (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children, or, [sic,]

(II) married and file a joint return.

8823 Guide

Units comprised of full-time students (no one of whom is entitled to file a joint return) do not qualify as low-income units. However, there are exceptions as outlined in IRC §42(i)(3)(D). This section provides that a unit shall not fail to be treated as a low-income unit merely because it is occupied

1. by an individual who is:

- I. a student receiving assistance under Title IV of the Social Security Act,
- II. a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act,² or
- III. a student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State or local laws.

2. entirely by full-time students if such students are

- I. single parents and their children and such parents are not dependents (as defined in IRC §152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children,³ or
- II. married and file a joint return.

ASK YOUR HFA – FULL-TIME STUDENT EXCEPTIONS INTERPRETATIONS

- ✓ Does your HFA allow one student to meet the single parent/dependent child exception, instead of requiring all adult students to meet the exception?
- ✓ Does your HFA allow one student to meet the married/entitled to file exception, instead of requiring all adult students meet the exception?
- ✓ Does your HFA apply an age limit or time limit to the former foster care exception?
- ✓ Does the HFA treat an unborn child of the household as a non-student for purposes of student eligibility?



ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

LIHTC – Student Eligibility, cont.

Evaluating Student Status

Student eligibility should be evaluated at:

- ✓ Move-in
- ✓ Recertification (even for 100% LIHTC projects)
- ✓ Whenever a household reports a change in household composition
- ✓ Whenever a household reports a change in student status

Management should utilize a student certification form documenting the student eligibility of each household.



ASK YOUR HFA

Each state Housing Finance Agency generally has a student certification form that must be completed for each household.

LIHTC/HUD-Assisted Programs

HUD has made it expressly clear that owners/agents must not evict existing HUD-assisted units for failing to continually meet the LIHTC student requirements.

HUD stated that it is permissible for owner/agents to offer incentives to HUD eligible households who no longer meet the LIHTC Student requirements, to voluntarily move. However, owner/agents may only do so as long as the incentives are not paid out from Section 8 or FHA project funds.



When offering incentives, to demonstrate that the choice of moving is truly voluntary, owners/agents should first inform the household in writing that they have the option to remain in the unit. This documentation should be maintained in the household's file.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

LIHTC – Student Eligibility, cont.

KNOWLEDGE CHECK:

LIHTC Student Eligibility



Nick (age 28) and his daughter, London (age 7), are applying for an LIHTC unit. They are both full-time students.

London will be living in the unit more than 50% of the time. Nick's father claims London as a dependent on his taxes.

Is this household student eligible?

YES or NO

Why or why not?

KNOWLEDGE CHECK:

LIHTC Student Eligibility



Tessa (age 24) and her boyfriend, Preston (age 25), are applying for an LIHTC unit. Tessa is a full-time student at the local university and Preston is a part-time student at the local community college.

During the application process, management discovers Tessa was in foster care from the age of 15 till the age of 18.

Is this household student eligible?

YES or NO

Why or why not?

ELIGIBILITY ESSENTIALS:

Housing and Urban Development (HUD)



ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

HUD 4350.3 3-13/3-40

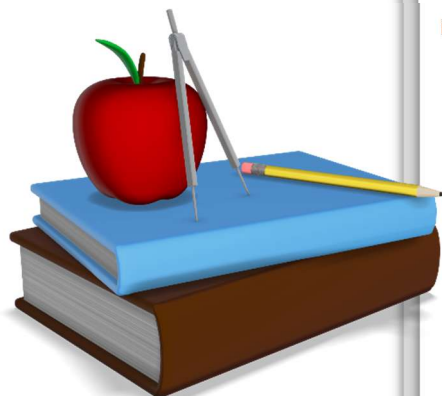
HUD Section 8 – Student Eligibility

There is a set of criteria that must be met for certain student households in order for those households to receive **Section 8 assistance**.

If an adult student is not considered to be “independent” from their parents or guardians, then not only does the student need to income qualify, the student’s parents/guardians must also income qualify.

If a household includes a member who is an ineligible student, the **entire household** is not eligible for Section 8 assistance.

The determination of whether or not a student’s household is eligible to receive Section 8 assistance can be broken down into three steps.



1

Step 1. Determine if the Student Rules Apply to the Household.

Not all students have to meet these requirements. This student rule only applies to **full- or part-time students** who are:

- A. Between the ages of 18-23, and
- B. Are not living with their parents who are applying to receive Section 8 assistance.

On **July 27, 2006** President Bush signed into law an amendment that exempts college students with disabilities from the restriction on providing subsidy to college students if the student with the disability was receiving the assistance as of **November 30, 2005**.



EXAMPLE #1 – STUDENT RULES “NOT APPLICABLE”

Ashley, age 43, is the sole household member and is a part-time student in college.

*As Ashley is over the age of 23, the student restrictions on Section 8 assistance **do not apply** to her household.*

EXAMPLE #2 – STUDENT RULES “NOT APPLICABLE”

Zelda, age 18, is a full-time student in college and lives with her parents, Mike and Carol who are applying for Section 8 assistance.

*As Zelda is living with her parents (who are applying for the Section 8 assistance), the student restrictions on Section 8 assistance **do not apply** to her household.*

EXAMPLE #3 – STUDENT RULES “APPLICABLE”

Ramona, age 19, is a part-time student in college and is applying for Section 8 assistance with her best friend, Wila.

*Since Ramona is a student between the ages of 18-23 and is not living with her parents who are applying for the Section 8 assistance, the student restrictions on Section 8 assistance **do apply** to her household.*

It would need to be determined that Ramona is “independent” from her parents or her parents would need to income qualify in order for Ramona’s household to be eligible to receive Section 8 assistance.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

HUD Section 8 – Student Eligibility, cont.

Step 2. Determine if the Student is “Independent”.

A student is considered “independent” if the student:

- Is Married,
- Is a Veteran,
- Has a Dependent Child, or
- Is considered a “Vulnerable Youth”.

Vulnerable Youth

HUD defines “vulnerable youth” when a student meets one of the following definitions, as provided by the **Higher Education Act**:

- Student is an orphan, in foster care, or a ward of the court at any time when the student was 13 years of age or older.
- The student is, or was immediately prior to attaining the age of majority, an emancipated minor.
- The student meets the McKinney-Vento Homeless Assistance Act’s definition of homeless youth or at-risk homeless youth.

Note: Documentation should be maintained in the tenant file demonstrating that one of the above criteria has been met.

If the student does not meet any of the above criteria, a student can also be considered “independent” if the student meets the criteria below:

1. The student is of legal contract age, **AND**
2. Has obtained certification of the amount of financial assistance that will be provided by the parent(s), signed by the individual(s) providing support, **AND**
3. Student meets the Department of Education’s definition of an independent student by meeting one of the following additional criteria:
 - a. Is a graduate or professional student, **OR**
 - b. Has a dependent parent.

OR, in addition to criteria #1 and #2, the student must also meet the criteria below:

- The student is not claimed as a dependent by their parents or legal guardians per the IRS regulations.
 - Note: Review the **student’s (not the parent’s)** prior year’s income tax return to verify that the student was not claimed as a dependent by another individual, **AND**
- The student has established a household separate from their parents or legal guardians for **at least one (1) year** prior to the application for occupancy. Dorms do not count as a separate household.
 - Note: Review and verify previous address information to determine evidence of a separate household from parents/guardians.

HUD 4350.3 3-13/3-40

FR-5969-N-01

**Added
September, 2016**

FR-5969-N-01

**Added
September, 2016**

EXAMPLE – STUDENT “NOT INDEPENDENT”

Pilar, age 18, is a single, full-time student in college. Pilar is applying for a Section 8 assistance. Pilar is the sole household member as she does not have any dependents. Her only source of income is the financial support provided by her parents. Pilar has never lived on her own before as she has lived with her parents since birth. She is claimed as a dependent on her parent’s tax return.

Since Pilar does not meet any of the criteria of “independent” from parents, Pilar’s parents must be income qualified in order for Pilar to receive Section 8 assistance.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

HUD Section 8 – Student Eligibility, cont.

HUD 4350.3 3-13/3-40



Step 3. If the Student is not “Independent”, Determine if the Student and the Parent(s)/Guardian(s) Are Income Eligible.

If the student is determined to not be “independent” from their parents, **BOTH** the student and the parents (individually or jointly) must be income eligible in order for the household to be eligible to receive assistance.

In order to determine the income eligibility of the parents, obtain a certification of income from the parents.

Note: Additional documentation to support the certification may be obtained if the certification and declaration of income is questionable. Additional documentation may include but is not limited to prior year’s tax return, bank statements, consecutive and original paystubs, and benefit letters.

The parents’ income must be at, or below, the Low (80%) Income Limit for the parent’s household size that applies to the county where the parents live, if the parents reside in the United States.

If the parents do not live in the United States, use the Low (80%) Income Limit that applies to the county where the property is located.



Consider the Following...

- **If the student’s parents are married (and living with each other)...**
 - Obtain the declaration and certification of income from each parent.
- **If the student’s parent is widowed or single...**
 - Obtain the declaration and certification of income from that parent.
- **If the student’s parents are divorced or separated...**
 - Obtain the declaration and certification of income from each parent.
- **If the student has been living with one of his or her parents and has not had contact with, or does not know where to contact his or her other parent...**
 - Obtain from the student a certification addressing the circumstances and that they have not received any financial assistance (directly or indirectly) from the absent parent. Information must be collected in addition to the declaration and certification of income from the parent with whom the student has been living with or contact with. The certifications must include a “Penalty of Perjury” statement.

HUD’s “Questions and Answers on the Eligibility of Students for Assisted Housing Under the Multifamily Housing Project-Based Section 8 Program”

IF the parents/guardians refuse to provide a declaration of their income or a statement of whether or not they provide the student financial assistance, then the student WILL NOT be eligible to receive Section 8 assistance.

Parents Defined...

HUD defines “parents” to include:

- Biological or Adoptive Parents
- Guardians, such as:
 - Grandparents
 - Aunt/Uncle
 - Godparents



HUD 4350.3 Glossary/24

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

HUD Section 8 – Student Eligibility, cont.

Step 3. If the Student is not “Independent”, Determine if the Student and the Parent(s)/Guardian(s) Are Income Eligible, cont.



EXAMPLE – DETERMINING INCOME ELIGIBILITY FOR PARENTS OF DEPENDENT STUDENTS

Pretty is an 18-year-old student applying for Section 8 assistance at a property in Concord, NH (Merrimack County). Pretty is applying along with her twin sister, Precious, who is not a student. The 2-person income Low (80%) Income Limit for Merrimack County is \$29,700. Pretty and Precious’s household income is \$21,000.

Pretty has been determined to not be “independent” from her parents. Therefore, her parents must also income qualify in order for Pretty’s household to be eligible to receive Section 8 assistance. Pretty’s parents provide a certification of income declaring their household income to be \$46,800. Pretty’s parents live in Surry County, NC. The 2-person Low (80%) Income Limit for Surry County, NC is \$52,600.

In this example, Pretty’s parents’ income of \$46,800 would be compared to the 80% income limit for the county which the parents live (Surry County), not the county that the property is located (Merrimack County).

As both the student and the parents are income eligible, Pretty’s household meets the student eligibility requirements for Section 8 assistance.

Monitoring of Student Eligibility for Section 8 Assistance

Certain events require evaluation of a household’s eligibility for Section 8 assistance.

Student eligibility must be evaluated:

- At initial assignment of assistance
- At recertification
- When there is a change in household composition
- When the household reports a change in student status



REMEMBER...

For households where the student is not considered “independent”, parents/guardians must be income eligible for the student to continue to receive Section 8 assistance. Therefore, it is required to determine the parents’/guardians’ income eligibility **annually** in addition to determining student income eligibility.

An owner **CANNOT** evict or require an ineligible student to move from a unit, as long as the student is in compliance with the terms of the lease.

HUD 4350.3 3-13 A.
5./3-41

Section 8 Student Rules Checklist

Step 1: Determine if Student Rules are Applicable to the Household		Yes	No
A. Does the household include a member that is a student at an institution of higher learning, between the ages of 18-23?		☐ Proceed to question B.	☐ Student Rules do NOT apply.
B. Is the student living with his/her parents or guardians who are receiving or apply to receive rental assistance?		☐ Student Rules do NOT apply.	☐ Student Rules apply. The student must be independent from parents or the students' parents must be income eligible. Proceed to Step 2.
Step 2: Determine if Student Is Independent			
		Yes	No
C. Is the student any one of the following? ☐ Veteran ☐ Married ☐ Parent with a dependent child ☐ Person with disabilities who was receiving assistance on 11/30/2005 ☐ Vulnerable Youth		☐ Household is eligible!	☐ Proceed to question D.
D. Is the student of legal contract age under state law?		☐ Proceed to question E.	☐ Student not "Independent." Proceed to Step 3.
E. Has certification/verification been obtained of the amount of financial support that will be provided by the parents?		☐ Proceed to question F.	☐ Student not "Independent." Proceed to Step 3.
F. Does the Student Meet the US Dept. of Education's definition of an Independent Student by meeting one of the following criteria? ☐ Has a dependent parent ☐ Is a professional or graduate student		☐ Household is eligible!	☐ Proceed to question G. ☐ Student not "Independent." Proceed to Step 3.
G. Has the student established a separate residence from their parents for at least one year?		☐ Proceed to question H.	☐ Student not "Independent." Proceed to Step 3.
H. Is the student claimed as a dependent on his/her parents tax return?		☐ Student not "Independent." Proceed to Step 3.	☐ Household is eligible!
Step 3: if Student is not "Independent", determine if the student is income eligible and the parent/guardians are income eligible			
		Yes	No
I. Have the student's parents/guardians provided a certification of income?		☐ Proceed to question J.	☐ Household is NOT eligible!
J. Is the parent's/guardian's income at or below the Low-Income Limit (80%)?		☐ Household is eligible!	☐ Household is NOT eligible!

Section 8 Student Flow Chart

Does the household include a member between the ages of 18-23 who is a full or part time student at an institute of higher education?

YES

Is the student living with his/her parent or guardian who is receiving or applying to receive rental assistance?

NO

Student Rules do not apply

YES

Student Rules do not apply

NO

Student rules apply.

Is the student:

☐ A Veteran

☐ Married

☐ Parent with dependent child

☐ Person with disabilities receiving rental assistance as of 11/30/2005

☐ Vulnerable Youth

YES

Household is student eligible

NO

is the student of legal contract age under state law?

YES

Has the student obtained certification of the amount of financial support that will be provided by the parents?

NO

YES

Does the Student meet the US Dept. of Education definition of an independent student by meeting one of the following criteria?

☐ The Student has a dependent Parent

☐ The Student is a professional or graduate student

NO

YES

Household is student eligible

NO

Has the student established a separate household from their parent/guardians for at least one year? (Does not include dorms)

YES

8 Is the student claimed by parents/guardian on the parent's/guardians taxes?

NO

YES

NO

Household meets the student eligibility requirements as the student is independent.

Have the students' parents/guardians provided a certification of income?

YES

Is the Parent/Guardian's income at or below the Low-Income Limit (80%)?

NO

A Student will not receive assistance if parents or guardians refuse to certify income.

YES

Household student eligible

NO

Household is NOT student eligible

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

HUD Section 8 – Student Eligibility, cont.

KNOWLEDGE CHECK:

Student Eligibility



2-person Low Income Limit for Murphy County, OR = \$42,000

Claudia and her girlfriend, Crystal, are applying for a unit with Section 8 assistance in Murphy County, Oregon.

Claudia is a single, 20-year-old part-time student at the local community college. Claudia also works part-time earning \$13,000 per year. She does not have any assets.

Crystal does not attend school. She works a full-time job, her only source of income, and she earns \$25,000 annually. Crystal's only asset is a checking account with a current balance of \$1,200. The account does not earn interest.

Claudia has never been in the military and is not disabled. Claudia and Crystal are the only household members, as neither of them have any dependents. Claudia moved out of her parents' home 6-months ago and has been living on her own ever since. Claudia hasn't been claimed as a dependent on her parents' tax return in two years. Claudia's parents, who also live in Murphy County, provide a written certification verifying that they will not be providing any financial support to Claudia, and further certify that last year they earned a total of \$52,000.

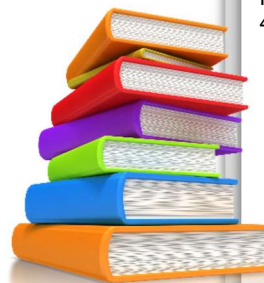
Based on the above scenario, is this household eligible for Section 8 assistance?

HUD Non-Section 8 – Student Eligibility

Eligibility of Students for Other Assistance Programs

There are different student eligibility requirements for non-section 8 programs, including:

- Rent Supplement
- RAP
- Section 221(d)(3) BMIR
- Section 236
- Section 202 PAC
- Section 202 PRAC
- Section 811 PRAC



HUD 4350.3 3-13 B./3-42

For the above programs, students must meet all of the following criteria:

- Be of legal contract age under state law;
- Have established a household separate from parents or legal guardians for at least one (1) year prior to application for occupancy, **OR**
- Meet the U.S. Department of Education's definition of an independent student;
- Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; **AND**
- Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.

ELIGIBILITY ESSENTIALS:

Rural Development (RD)



ELIGIBILITY ESSENTIALS:

Conquering Student Eligibility

References & Notes

RD Section 515 – Student Eligibility

In 2007, by publication of an Unnumbered Letter, the RD program adopted the student eligibility requirements used for HUD's Section 8 program.

Per the Director of Multifamily Housing Programs at Rural Development at the time, Stephanie White, confirmed in subsequent years (2015 and in 2017) that the student rules outlined in UL 01/11/2007 were still in effect even though the UL has expired.

After the retirement of the Director in 2017, Deputy Director with the National RD Office stated in January of 2018 that upon subsequent review it was determined that the requirements regarding students found in HUD's regulation 24 CFR § 5.612, do not apply to the Rural Development program, as RD regulation 7 CFR § 3560.153 only refers to HUD regulations as it relates to determining gross and adjusted income 24 CFR § 5.609 and 24 CFR § 5.611.

This information was confirmed with the current Director in August of 2019.

The student rules noted in the RD Handbook 2, can be found in Section 6.5 B. on page 6-5 of the HB-2-3560.

Section 6.5 B states the following:

Student. A student may be considered an eligible tenant when all of the following conditions are met:

- The student is of legal age in accordance with the applicable state law or is otherwise legally able to enter into a binding contract under state law;
- The person seeking occupancy:
 - 1) must meet the U.S. Department of Education's definition of an independent **or** must have established a household separate from the person's parents or legal guardians (for at least **one year prior to application for occupancy**), and is no longer claimed as a dependent by the person's parents or legal guardians pursuant to Internal Revenue Service regulations, and evidence (most recently filed tax return) is provided to this effect; **OR**
 - 2) is claimed as a dependent by the person's parents or legal guardians and the student is eligible because the entire household is income eligible.

Note: If eligible under item (1) above, the applicant must sign a written statement indicating whether or not the person's parents, legal guardians, or others provide any financial assistance, and this financial assistance is considered as part of current annual income and is verified in writing by the borrower.

With all of the above information being said, the National Office has not released any new guidance in the form of an Unnumbered Letter or an Administrative Notice regarding the matter.

Please check with your local RD office to see how they want the student eligibility requirements handled.



RD UL 01/11/2007
NO LONGER IN
EFFECT

RD HB-2-3560 6.5 B./6-5



ELIGIBILITY ESSENTIALS: HOME Investment Partnerships Program (HOME)



ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

HOME Program – Student Eligibility

On July 24, 2013, HUD published a Final Rule applicable to the HOME Program.

Many of the changes noted in the Final Rule were specifically stated to only apply to HOME projects where HOME funds were committed to the project on or after August 23, 2013.

One of the most notable changes, as it related to tenant eligibility, was the adoption of HUD's Section 8 program restrictions on students.

While the Final Rule clearly stated these restrictions, it was not made expressly clear as to whether these student restrictions would apply to all HOME projects, regardless of the funds commitment date, or only apply to HOME projects committed funds after August 23, 2013. Furthermore, the 2013 Final Rule did not address how to handle tenants whom initially qualified but are later determined to be ineligible students.

HUD clarified the application of student requirements in January 2015 with the publication of the HOME Final Rule Applicability Chart, which states that the requirements are applicable to **ALL** HOME projects (regardless of when funds were committed).

HUD further clarified that if a household later becomes an ineligible student household, the household is treated as an "over-income" unit.

GENERAL PROGRAM & ADMINISTRATION

	REQUIREMENT	EFFECTIVE DATE	NOTES
CATEGORY #1: REQUIREMENTS TO CLARIFY OR CODIFY EXISTING REQUIREMENTS Applicable to all HOME projects in portfolio (regardless of when funds were committed)			
Definitions	Housing §92.2	Halfway housing, dormitories, and all types of student housing are excluded from the definition of housing.	These are ineligible for HOME funding.
	Low and very low-income families (students) §92.2	Excludes students who do not qualify as a low-income family on their own, or are not part of a low-income family, from participating independently in the HOME program.	If tenant currently living in HOME unit is a student who is not part of a low-income family, or does not qualify individually as a low-income family, PJs must correct this non-compliance by treating the tenant as an over-income tenant.
	Program income §92.2	Excludes gross income from the use, rental, or sale of real property received by the project owner, developer or sponsor unless they paid it to the PJ or subrecipient/State subrecipient.	
	Project completion §92.2	A project is considered complete when it meets certain conditions, including: construction completion, title transfer, property standards met, funds disbursed and drawn, completion info entered into IDIS (homebuyer projects require beneficiary data, while rental projects can be completed as "vacant").	
	Subrecipient §92.2	Subrecipients receive HOME funds to carry out programs not to undertake specific projects.	Entities that qualify as subrecipients can also receive funding for a specific local project, but they are not functioning as a subrecipient for that project.
Distribution of Assistance	Joint project §92.201(a)(2)	Further defines what constitutes a "joint project" that serves residents of two jurisdictions. Both jurisdictions must make substantial contributions.	

ELIGIBILITY ESSENTIALS: Student Financial Assistance



ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

HUD 4350.3 5-6 E./5-11

HUD Notice H 2023-10,
Attachment G, G.16.d/90

Unearned Income: Student Financial Assistance

The determination of how student financial assistance is calculated is dependent on whether the household is receiving Section 8 Assistance and if the student meets an exception or not.

For Applicants/Tenants **NOT RECEIVING** Section 8:

Refer to the HOTMA regulations for determining student financial assistance.



For Applicants/Tenants **RECEIVING** Section 8:

INCLUDE the amount of student financial assistance in excess of tuition and required fees, **UNLESS**:

1. The student is over the age of 23, with a dependent child, **OR**
2. The student is living with their parent who receives the Section 8 assistance.



Note: If the student meets **either** of the above exceptions, their income must be calculated as if the household does not receive Section 8. (Refer to the HOTMA Regulations for determining student financial assistance.)

Section 8 Recipients

Example – Household **RECEIVES** Section 8 Assistance

Ella is 32, lives alone in a unit and receives Section 8 assistance. Ella reports that she is attending college where her annual tuition is \$17,500. Ella also receives the following student financial assistance:

- Pell Grant - \$9,000 a year
- Scholarship - \$4,000 a year
- Assistance from her parents - \$5,000 a year

*In this example, only **\$500** (\$18,000 (total financial assistance) - \$17,500 (tuition) = \$500) from the financial assistance would be **included** as income as Ella receives Section 8 assistance but is not over the age of 23 with a dependent child nor does she live with her parents who receives the Section 8 assistance.*

Example – Household **RECEIVES** Section 8 Assistance

Tabitha is 24, lives alone in a unit and receives Section 8 assistance. Tabitha reports that she is attending college where her annual tuition is \$22,000. Tabitha also receives the following student financial assistance:

- Pell Grant - \$12,000 a year
- Scholarship - \$8,000 a year

*In this example, **\$0** (\$20,000 (total financial assistance) - \$22,000 (tuition) = -\$2,000) would be counted for student financial assistance as Tabitha receives Section 8 assistance but is not over the age of 23 with a dependent child nor does she live with her parents who receives the Section 8 assistance.*

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

Unearned Income: Student Financial Assistance, cont.

Section 8 Recipients, cont.

Defining Student Financial Assistance

HUD defines student financial assistance as:

- Assistance received under the Higher Education Act of 1965, such as:
 - Pell Grants
 - Federal Supplemental Education Opportunity Grants
 - Academic Achievement Incentive Scholarships
 - State Assistance Partnership Program
 - Robert G. Byrd Honors Scholarship Program
 - Federal Work-Study Programs
- Private Sources (non-governmental sources) such as:
 - Assistance from a parent, guardian, or another family member
- An Institution of Higher Education such as:
 - Scholarships

Student loans are not considered to be financial assistance!

HUD 4350.3 Glossary

HUD 4350.3 5-6 E./5-11

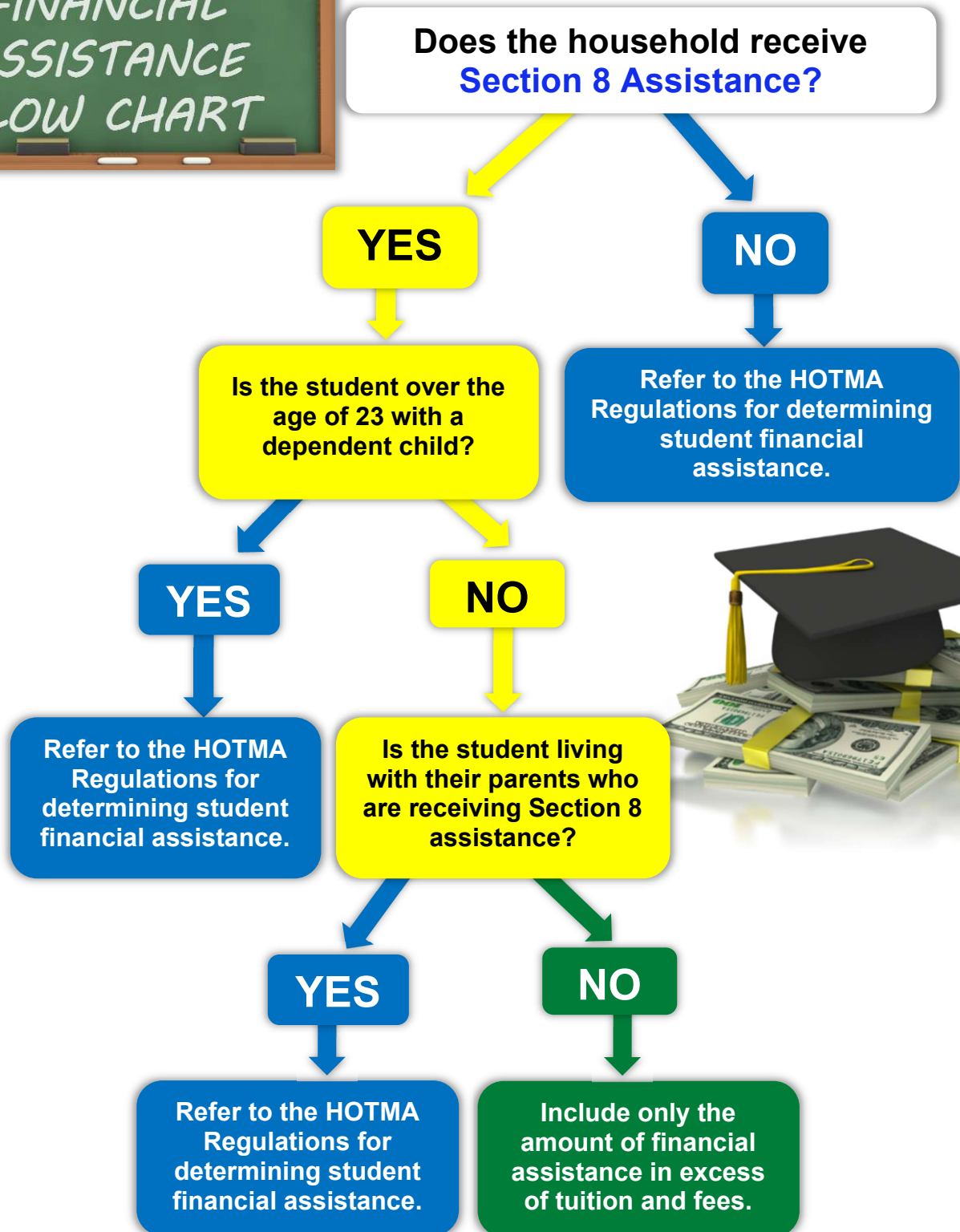
Defining Tuition and Required Fees

Under current regulations, the definition of tuition and required fees is synonymous with the definition of Actual Covered Costs for non-Section 8 households, to be discussed in the following section.



HUD Notice H 2023-10,
Attachment G., G.16.d/90
– Footnote

STUDENT FINANCIAL ASSISTANCE FLOW CHART



ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

Unearned Income: Student Financial Assistance, cont.

For households not receiving Section 8 assistance, the Section 8 component was removed from the 24 § CFR 5.609; meaning, any household receiving student financial assistance, regardless of whether or not subsidy is being received, may need to have student financial assistance included in the household's annual income determination.

Under the new regulation, HUD changed its definition of student financial assistance for the purpose of determining annual income.

The reason behind this change stems from the provision in Section 479B of the Higher Education Act (HEA). This particular section prohibits the consideration of student financial assistance covered by the HEA when assessing eligibility for any other programs funded by the federal government.

Note: The new regulation does not include an exception for students who are over the age of 23 with a dependent child or students who are living with their parents.

Non-Section 8 Recipients

Higher Education Act

HUD Notice H 2023-10,
Attachment G, G.16/86

24 CFR § 5.609(b)(9)

HUD Notice H 2023-10,
Attachment G, G.16.a/86

✗ **All assistance** under the 479B of Higher Education Act (HEA) or the Bureau of Indian Affairs Student assistance program (BIA), **even amounts in excess** of actual covered costs of the student, is **excluded** from income.

Examples:

- ✗ Federal Pell Grants;
- ✗ Teach Grants;
- ✗ Federal Work Study Programs;
- ✗ Federal Perkins Loans;
- ✗ Student financial assistance received under the Bureau of Indian Education;
- ✗ Higher Education Tribal Grant;
- ✗ Tribally Controlled Colleges or Universities Grant Program;
- ✗ Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

Other Assistance (Non-HEA Assistance)

HUD Notice H 2023-10,
Attachment G, G.16.b/86

- ✓ **Other assistance**, such as scholarships or grants **not covered under HEA or BIA**; the amount of assistance **that is in excess** of actual covered costs of the student are **included** in annual income.

This can include grants or scholarships received from the following sources:

- ✓ The Federal government;
- ✓ A state (including U.S. territories), Tribe, or local government;
- ✓ A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- ✓ A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- ✓ An institution of higher education.

The following is **NO longer considered** student financial assistance:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- Gifts, including gifts from family or friends.

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

HUD Notice H 2023-10,
Attachment G, G.16.c/87

Unearned Income: Student Financial Assistance, cont.

Non-Section 8 Recipients, cont.

Combined Assistance

In the event a student has student financial assistance that includes assistance that is covered under the HEA (HEA Assistance), as well as assistance that is not covered under the HEA (Non-HEA Assistance), HUD states the following formula must be used in order to determine how much may be excluded when determining income.

To determine the amount to include in annual income (Step 2), the amount permitted to be excluded must be determined first (Step 1).

Step1: Subtract the amount of HEA Assistance from the actual covered costs to arrive at the amount of actual covered costs exceeding the HEA Assistance. (**Actual Covered Costs – HEA Assistance = “x”**)

Step 2: Subtract the amount determined in Step 1 from the amount of Non-HEA Assistance to arrive at the amount of student financial. (**Non-HEA Assistance – “x” = Income**)



Example 1 – Combined Assistance (HEA Assistance & Non-HEA Assistance)

A student, who does not receive Section 8 assistance, receives the following in student financial assistance:

- ☐ \$15,000 – Scholarship under the HEA
- ☐ \$5,000 – Private Scholarship not covered under HEA

Student's actual covered costs: **\$22,000**

Step 1: Subtract the amount HEA Assistance from the actual covered costs.

$$\$22,000 \text{ (Actual Covered Cost)} - \$15,000 \text{ (HEA Assistance)} = \$7,000$$

Step 2: Subtract the amount determined in Step 1 from the Non-HEA Assistance.

$$\$5,000 \text{ (Non-HEA Assistance)} - \$7,000 \text{ (Step 1 Amount)} = \$0$$

→ As the amount of the scholarship combined with the assistance excluded under HEA (\$20,000) is less than the student's actual covered costs (\$22,000), **no financial assistance will be included in income.**

Example 2 – Combined Assistance (HEA Assistance & Non-HEA Assistance)

A student, who does not receive Section 8 assistance, receives the following in student financial assistance:

- ☐ \$15,000 – Scholarship under the HEA
- ☐ \$5,000 – Private Scholarship not covered under HEA

Student's actual covered costs: **\$18,000**

Step 1: Subtract the amount HEA Assistance from the actual covered costs.

$$\$18,000 \text{ (Actual Covered Costs)} - \$15,000 \text{ (HEA Assistance)} = \$3,000$$

Step 2: Subtract the amount determined in Step 1 from the Non-HEA Assistance.

$$\$5,000 \text{ (Non-HEA Assistance)} - \$3,000 \text{ (Step 1 Amount)} = \$2,000$$

→ As the student's assistance is more than actual covered costs, **the excess of \$2,000 must be included when determining income.**

ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

Unearned Income: Student Financial Assistance, cont.

Non-Section 8 Recipients, cont.

Example 3 – ONLY HEA Assistance

A student, who does not receive Section 8 assistance, receives the following in student financial assistance:

- ❑ \$25,000 – Scholarship under the HEA

Student's actual covered costs: **\$18,000**

→ Since the only form of student financial assistance received is covered under the HEA, **the entire amount of the above scholarship is excluded from income**, even though the assistance exceeds actual covered costs.

Example 4 – ONLY Non-HEA Assistance

A student, who does not receive Section 8 assistance, receives the following in student financial assistance:

- ❑ \$28,000 – Private Scholarship not covered under the HEA
- ❑ \$5,000 – Private Grant not covered under the HEA

Student's actual covered costs: **\$22,000**

→ Since none of the financial assistance received is covered under the HEA, the amount of the student financial assistance that **exceeds actual covered costs**, in this case, **\$11,000**, must be included in income. (\$33,000 – \$22,000 = \$11,000).

Actual Covered Costs

Actual covered costs to attend school includes the cost of:

- ✓ Tuition
- ✓ Books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities)
- ✓ Room and board, or other fees required and charged to a student by the education institution, and for a student who is not the head of household or spouse
- ✓ The reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit (i.e., the student is living in off-campus/non-college owned housing while away at school instead of a dorm or college owned housing)



HUD Notice H 2023-10,
Attachment G, G.16.c/87

Non-Section 8 Student Financial Assistance

Does the household receive Section 8?

NO

Does the household receive HEA Assistance?

YES

Refer to Section 8 Student Financial Assistance flow chart.

YES

Does the student receive Non-HEA Assistance?

NO

Subtract the amount of the student's actual covered cost from the amount of Non-HEA Assistance.

Non-HEA Assistance
– Actual Covered Costs

= Amount to include in annual Income.

Negative Amounts are treated as Zero.

YES

STEP 1: Subtract the HEA Assistance from Actual Covered Costs.
(Actual Covered Costs – HEA Assistance)

STEP 2: Subtract the amount determined in Step 1 from the Non-HEA Assistance.

Non-HEA Assistance
– Step 1 Amount
= Amount to include in annual Income.

Negative Amounts are treated as Zero.

NO

Since all financial assistance is covered under the HEA, no financial assistance is included in income.



ELIGIBILITY ESSENTIALS: Conquering Student Eligibility

References & Notes

Unearned Income: Student Financial Assistance, cont.

KNOWLEDGE CHECK: Student Financial Assistance



Waverly, age 31, is applying for a unit and will not be receiving Section 8 assistance. She is a student in college and the actual costs to attend school total \$24,000. She receives the following in student financial assistance:

- ☐ \$25,000 – HEA Assistance
- ☐ \$5,000 – Non-HEA Assistance

How much student financial assistance, if any, will be included when determining annual income for this household?

KNOWLEDGE CHECK: Student Financial Assistance



Joy Anne, age 21, and her 1-year-old son live at Spruce Pine Apartments. Joy Anne receives Section 8 assistance and is a full-time student at the local university. Joy Anne's annual tuition and required fees is \$32,000 and she receives the following student financial assistance:

- ☐ \$15,000 Pell Grant
- ☐ \$9,000 from her parents
- ☐ \$15,000 Scholarship

How much student financial assistance, if any, will be included when determining annual income for Joy Anne's household?

KNOWLEDGE CHECK: Student Financial Assistance



Iris, age 25, is applying for an apartment with her 4-year-old son, Jack, at the Hot Springs Apartments and receives Section 8 assistance. Iris is a full-time student at the local university and her annual tuition and required fees is \$22,860. Iris receives the following student financial assistance:

- ☐ \$17,500 Pell Grant under the HEA
- ☐ \$6,800 Scholarship not covered under HEA
- ☐ \$3,500 Student Loan

How much student financial assistance, if any, will be included when determining annual income for this household?