

**Questions and Answers on the Eligibility of  
Students for Assisted Housing Under the Multifamily  
Housing Project-based Section 8 Program**

<b>Group 1: Eligibility and Income Determinations</b>			
	<b>Final Rule 24 CFR part 5, subpart F</b>	<b>Question</b>	<b>Answer</b>
Section 327(a) <b>Amended by</b> Public Law 109- 249	Section 5.612	What are the restrictions in Section 327(a) of the Act?	<p>No section 8 assistance shall be provided to any individual who:</p> <ul style="list-style-type: none"> <li>● Is enrolled as a student at an institution of higher education;</li> <li>● Is under the age of 24;</li> <li>● Is not a veteran of the United States military;</li> <li>● Is unmarried;</li> <li>● Does not have a dependent child;</li> <li>● Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C.1437a(b)(3)(E)) and was not receiving assistance under such section 8 as of November 30, 2005; and</li> <li>● Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive section 8 assistance.</li> </ul>
Section 327(b)	Section 5.609(b)(9)	What are the restrictions in Section 327(b) of the Act?	Financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education is considered income for that individual, except for persons over the age of 23 with dependent

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	<b>Final Rule 24 CFR part 5, subpart F</b>	<b>Question</b>	<b>Answer</b>
			children.
Sections 327(a) and 327(b)	Sections 5.609(b)(9) and 5.612	Does the new law apply to both a part-time and a full-time student enrolled at an institution of higher education?	Yes. The new law applies to a student who is enrolled either full-time or part-time at an institution of higher education. The new law does not exempt a part-time student.
Section 327(a) <b>Amended by</b> Public Law 109-249	Section 5.612	Does the new law apply to a student who is a person with disabilities?	Students with disabilities who were receiving section 8 assistance as of November 30, 2005, are exempt from the restrictions for providing section 8 assistance to college students as provided in Public Law 109-249.  Students with disabilities who are applying for, or who started receiving, section 8 assistance after November 30, 2005, are not exempt from the restrictions of the new law.
Section 327(a)	Sections 5.612(f)	If a student is living with his or her parents who are already living in assisted housing and receiving section 8 assistance, must the student meet the eligibility requirements of 5.612(f)?	No. The new law does not apply to students residing with their parents in a section 8 assisted unit or who reside with parents who are applying to receive section 8 assistance.
Sections 327(b)	Sections 5.609(b)(9)	Would any financial assistance received by a student living with his or her parents in assisted housing and receiving section 8 assistance be included in annual income?	No. Since the new law does not apply to students residing with their parents in a section 8 assisted unit or who reside with parents who are applying to receive section 8 assistance, any financial assistance in excess of tuition would not be included in annual income. The financial assistance would continue to be excluded from annual income under 5.609(c)(6).

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	Final Rule 24 CFR part 5, subpart F	Question	Answer
Section 327(a)(1) through (a)(6) <b>Amended by</b> Public Law 109-249	Section 5.612(a) through (f)	If a student is under the age of 24, not a veteran, unmarried, and has no dependent children, must both the student and the student's parents meet the income eligibility requirements in order for the student to be eligible?	<p>If an individual is enrolled as a student at an institution of higher education, is under the age of 24, not a veteran, not married, is not a person with disabilities who was receiving section 8 assistance on November 30, 2005, and does not have a dependent child, in order to be eligible for section 8 assistance, the student must be individually eligible to receive section 8 assistance <b>and</b> the student's parents (the parents individually or jointly) must be income eligible to receive section 8 assistance unless the student can demonstrate his or her independence from parents in accordance with the guidance in the Supplementary Guidance Notice published in the April 10, 2006 Federal Register (71 FR 18146).</p> <p>As previously stated, the new law does not apply to students residing with their parents in a section 8 assisted unit or who reside with parents who are applying to receive section 8 assistance.</p>

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	<b>Final Rule 24 CFR part 5, subpart F</b>	<b>Question</b>	<b>Answer</b>
Section 327(a)(1) through (a)(6)	5.612(a) through (5)	What happens if the parents refuse to declare or certify to their income?	In order for the student to be eligible for section 8 assistance, his or her parents must also be eligible for section 8 assistance, therefore, if the parents refuse to provide a declaration and certification of their income, the student is not eligible unless the student can demonstrate his or her independence from parents in accordance with the guidance published in the Supplementary Guidance Notice published in the April 10, 2006 Federal Register (71 FR 18146).
Section 327(a)(6)	Section 5.612(f)	When determining the parent's eligibility under the new law do the parents have to meet all of HUD's program eligibility requirements in order for the student to be eligible?	<p>No. Since Section 327 is focused on income eligibility of a higher education student, the Department interprets the section's reference to the eligibility of the parents to also refer to income eligibility.</p> <p>However, parents who are applying to live in the assisted unit with the student and receive section 8 assistance would have to meet all of the program eligibility requirements addressed in HUD Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i>.</p>

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	Final Rule 24 CFR part 5, subpart F	Question	Answer
Section 327(a)(6)	Section 5.612(f)	What income limit is used for determining the parents' income eligibility under section 5.612(f)?	<p>In determining the parents' income eligibility to receive section 8 assistance, the owner should use the applicable <i>low</i> income limit for the parents' family size for the locality where the parents reside. For example, if the parents live in New York City, the low-income limit for the family size for New York City should be used for determining the parents' eligibility for section 8 assistance.</p> <p>If a student's parents live outside of the United States in areas where income limits have not been established for the section 8 program, the owner should use the applicable <i>low</i> income limit for the parents' family size for the same locality used in determining the student's eligibility.</p> <p>(See paragraph 3-6.E.4 of Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i>, for guidance on determining family size for income limits and paragraph 3-6.F for applying the income limit to determine eligibility for assistance. Income limits for the section 8 program are posted at <a href="http://www.huduser.org">www.huduser.org</a>.)</p>

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	<p><b>Final Rule 24 CFR part 5, subpart F</b></p>	<p><b>Question</b></p>	<p><b>Answer</b></p>
<p>Section 327(a)(6)</p>	<p>Section 5.612(f)</p>	<p>In order to determine the eligibility of parents for section 8 assistance, how will owners and managers obtain and verify income information on the parents?</p>	<p>In order to determine the eligibility of parents, the owner may accept a signed declaration and certification of income from the parents, which includes a penalty of perjury clause.</p> <p>If for some reason the owner determines that the parents' declaration and certification of income or their eligibility is questionable, the owner may request and review supporting documentation.</p> <p>Supporting documentation includes, but is not limited to: Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, Temporary Assistance to Needy Families (TANF) or Social Security Administration award letters or other official and authentic documents from a federal, State or local agency.</p>

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	Final Rule 24 CFR part 5, subpart F	Question	Answer
Section 327(a)(6)	Section 5.612(f)	How can a student demonstrate his or her independence from parents?	<p>To determine a student’s independence from his or her parents, the owner should use program practices and criteria already in place. These practices and criteria include, but are not limited to, consideration of <b>all</b> of the following:</p> <ol style="list-style-type: none"> <li>1. The individual must be of legal contract age under state law.</li> <li>2. The individual must have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, <b>or</b> the individual must meet the U.S. Department of Education’s definition of an independent student.</li> <li>3. The individual must not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations.</li> <li>4. The individual must 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.</li> </ol>

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	Final Rule 24 CFR part 5, subpart F	Question	Answer
Section 327(a)(6)	Section 5.612(f)	How will owners verify a student's independence from his or her parents in order to determine that the student's parents' income is not relevant for determining the student's eligibility?	<p>Owners will need to verify a student's independence from his or her parents by taking into consideration <b>all</b> of the following:</p> <ol style="list-style-type: none"> <li>1. Reviewing and verifying previous address information to determine evidence of a separate household, or verifying the student meet's the U.S. Department of Education's definition of "independent student"; and</li> <li>2. Reviewing prior year income tax returns to verify if a parent or guardian has claimed the student as a dependent (except if the student meets the Department of Education's definition of "independent student"); and</li> <li>3. Verifying income provided by a parent by requiring a written certification from the individual providing the support. Certification is also required if the parent(s) is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income.</li> </ol> <p>If the owner establishes additional criteria for determining the student's independence from parents, verification would also need to be obtained in accordance with the owner's policies.</p>

**Group 1: Eligibility and Income Determinations**

	<p><b>Final Rule 24 CFR part 5, subpart F</b></p>	<p><b>Question</b></p>	<p><b>Answer</b></p>
<p>Section 327(a)(6)</p>	<p>Section 5.612(f)</p>	<p>How will owners know whether to determine the income of the parents individually or jointly?</p>	<p>Owners may adopt and implement the following criteria for determining whether to obtain the declaration and certification of income from parents, individually or jointly:</p> <p>If the student’s parents are married and living with each other, obtain the declaration and certification of income from each parent.</p> <p>If the student’s parent is widowed or single, obtain the declaration and certification of income from that parent.</p> <p>If the student’s parents are divorced or separated, obtain the declaration and certification of income from each parent.</p> <p>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. The certification must include a penalty of perjury clause. The owner must also obtain the declaration and certification of income from the parent with whom the student has been living or has contact with.</p>

<b>Group 2: Definitions</b>			
<b>Section 327 of the FY 2006 Appropriations Act</b>	<b>Final Rule 24 CFR part 5, subpart F</b>	<b>Question</b>	<b>Answer</b>
Section 327(a)(1)	Section 5.612(a)	What is the definition of an institution of higher education under section 102 of the Higher Education Act of 1965?	The definition used for an institution of higher education under 20 U.S.C.1001 and 1002 of the Higher Education Act of 1965 is quite lengthy. See Appendix A of the Supplementary Guidance Notice published in the April 10, 2006 Federal Register (71 FR 18146) for the definition.
Section 327(a)(6)	Sections 5.612(e) and 5.609(b)(9)	What is the definition for “dependent child” and “dependent children” for the purposes of the new law?	“Dependent” in the context of the new eligibility restrictions, means a dependent child of an enrolled student who meets the criteria in 5.612. Dependent child is defined in HUD’s income eligibility regulations at 24 CFR 5.603 as a member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or a person with a disability, or a full-time student.

**Group 2: Definitions**

Section 327 of the FY 2006 Appropriations Act	Final Rule 24 CFR part 5, subpart F	Question	Answer
Section 327(b)	Section 5.609(b)(9).	What is included as “financial assistance”? Does it include scholarships as well as Federal, State and local grants and loans?	<p>Financial assistance includes any assistance in excess of tuition (e.g., athletic and academic scholarships) that a student receives:</p> <p>(1) Under the Higher Education Act of 1965. This includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.</p> <p>(2) Assistance from private sources. Non-governmental sources of assistance, including assistance that may be provided to a student from a parent(s), guardian or other family member, whether residing within the family in the section 8 assisted unit or not, and from other persons not residing in the unit.</p> <p>(3) From an institution of higher education requires reference to a particular institution and the institution’s listing of financial assistance.</p> <p>HUD has interpreted the term “financial assistance” to not include loan proceeds for the purpose of determining income. Therefore, Perkins loans, Stafford loans and Plus loans under the Higher Education Act of 1965 are not considered as financial assistance</p>

**Group 2: Definitions**

Section 327 of the FY 2006 Appropriations Act	Final Rule 24 CFR part 5, subpart F	Question	Answer
Section 327(a)(6)	Sections 5.612(f)	What is the definition for Independent Student used by the Department of Education for Title IV aid purposes?	<p>To qualify as an independent student for Title IV aid, a student must meet one or more of the following criteria:</p> <ul style="list-style-type: none"> <li>a. Be at least 24 years old by December 31 of the award year for which aid is sought;</li> <li>b. Be an orphan or a ward of the court through the age of 18.</li> <li>c. Be a veteran of the U.S. Armed Forces;</li> <li>d. Have legal dependents other than a spouse (for example, dependent children or parent);</li> <li>e. Be a graduate or professional student; or,</li> <li>f. Be married.</li> </ul>
Section 327(a)(6)	Section 5.612(f)	How should “parents” be defined? What if a student lives with a grandparent, aunt, guardian, etc., do they have to meet the qualifications also?	For purposes of this new law, and consistent with long-standing HUD policy regarding eligibility for the section 8 programs, parents means the biological or adoptive parents, or guardians (e.g., grandparents, aunt/uncle, godparents, etc.), or such definition as may be adopted by the owner through appropriate amendment to its admissions policies.
Section 327(a) and 327(b)	Sections 5.609(b)(9) and 5.612	How is student to be defined in the new law?	Student means all students enrolled either full-time or part-time at an institution of higher education. The new law does not exempt part-time students.
Section 327(b)	Section 5.609(b)(9)	What is included in “tuition”? Does it include other fees charged by the educational institution?	Tuition shall have the meaning given this term by the institution of higher education in which the

<b>Group 2: Definitions</b>			
<b>Section 327 of the FY 2006 Appropriations Act</b>	<b>Final Rule 24 CFR part 5, subpart F</b>	<b>Question</b>	<b>Answer</b>
			<u>student is enrolled.</u>
Section 327(a)(3)	Section 5.612(c)	What is the definition of a veteran?	The definition of veteran is left to the discretion of the owner. However, since the use of the Department of Veterans Affairs as codified at 38 U.S.C. 101(2) is widespread in other federal programs affecting veterans, owners may find it useful to adopt this definition. The term “veteran” codified at 38 U.S.C. 101(2) means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.”

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
Applicability	Does the new law apply to any program other than section 8?	No. The new law only applies to a student applying to receive or who is currently receiving section 8 assistance.
Applicability	Is a student who is currently residing in assisted housing and receiving Section 8 assistance grandfathered in under these new requirements?	<p>No. A student currently residing in assisted housing and receiving section 8 assistance will not be grandfathered in but at recertification must be eligible under the requirements in sections 5.609(b)(9) and 5.612 in order to continue being assisted under the section 8 program. As stated in the Final Rule published in the December 30, 2005 Federal Register (70 FR 77742), the Department is strongly encouraging owners and management agents to conduct a recertification on students currently receiving section 8 assistance as soon as is practicable and not wait until the time of annual recertification to implement the requirements for current residents.</p> <p>As previously stated, the new law does not apply to students residing with their parents in a section 8 assisted unit or who reside with parents who are applying to receive section 8 assistance.</p> <p>A student with disabilities, as defined in section 3(b)(3)(E) of the United State Housing Act (42 U.S.C. 1437(a)(b)(3)(E)), who was receiving section 8 assistance on November 30, 2005, is also exempt from the student restrictions.</p>

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
Applicability	Do the requirements in paragraphs 3-16 and 3-33 on student eligibility and verification currently in Handbook 4350.3 REV-1 still apply?	<p>Paragraphs 3-16 and 3-33 on student eligibility and verification no longer apply to a student applying for or receiving section 8 assistance. Owners should follow the guidance in the Supplementary Guidance Notice published in the April 10, 2006 Federal Register (71 FR 18146) for determining eligibility of a student to receive section 8 assistance.</p> <p>However, Paragraphs 3-16 and 3-33 continue to apply for a student applying for or living in assisted housing that are under multifamily housing programs other than the section 8 program.</p> <p>Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i>, will be updated to include all of the student eligibility requirements in a future change to the handbook.</p>
Recertification of Current Tenants	When is the latest permissible time that existing section 8 participants can be recertified?	Since the Final Rule published in the December 30, 2005 Federal Register (70 FR 77742), became effective on January 30, 2006, over one year ago, all tenants should have now been recertified based on the new student requirements.
Eligibility Dependent Child	What if a student has a dependent child who does not live in the unit with the student, is the student eligible under the new law without having to take into consideration his or her parents' income or having to demonstrate his or her independence from parents?	No. In order to be eligible under the new law, the dependent child should live in the unit with the student. If the student shares custody of the child, the child must live in the unit 50% or more of the time, which is the same guidance used for determining the unit size for the family (see Paragraph 3-23 E.6.(6) of Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i> ).

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
Eligibility Pregnant Applicant or Participant	If the student is pregnant does she qualify as having a dependent child under this new law?	No. The unborn child is only taken into consideration for purposes of establishing the student’s income eligibility and applicable unit size (see paragraphs 3-6.E and 3-23.E of Handbook 4350.3 REV-1, <i>Occupancy Requirements for Subsidized Multifamily Housing Programs.</i> )
Eligibility Student Married – Not Living with Spouse	If the student is married but not living with his or her spouse, is the student eligible under the new law without having to take into consideration his or her parents income or having to demonstrate his or her independence from parents.	No. In order to qualify as being married under this new law, the spouse should be living in the unit with the student. In instances where the student is not living with his or her spouse, the income of the student’s parents would be taken into consideration unless the student can demonstrate his or her independence from parents.
Certification Annual Certification of Student	Is a student only required to meet the eligibility requirements under the new law at the time of move-in or at the time of the first certification implementing the new law or will he or she have to meet the requirement at the time of each annual recertification?	Owners must ensure at each annual recertification that a student remains eligible to receive section 8 assistance under the restrictions of the new law as stated in the Supplementary Guidance Notice published in the April 10, 2006 Federal Register (72 FR18146).

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
Interim Recertifications	Is a student required to meet the eligibility requirements at the time of an interim recertification?	<p>If a household reports a change in household composition or income between their regularly scheduled certifications, the owner must process an interim recertification, verifying any circumstances that have changed since the last time the household was certified as addressed in Paragraph 7-11 of Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i>.</p> <p>Therefore, if one of the changes reported is that a household member is enrolled as a student at an institution of higher education, the owner will need to determine the student's eligibility under the new law. The exceptions to this are:</p> <ul style="list-style-type: none"> <li>▪ when the student is living in a subsidized unit with his or her parents who are receiving section 8 assistance, or</li> <li>▪ the student is a person with disabilities who was receiving section 8 assistance on November 30, 2005.</li> </ul> <p>A student who was determined eligible at the time of the last certification for a household, does not have to be determined eligible again when processing the interim recertification.</p>

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
<p>Certification</p> <p>Certification of Parents Income Annually</p>	<p>Will owners be required to obtain and verify income information on the parents at every annual recertification to determine if the student continues to be eligible?</p>	<p>Yes. Owners must ensure at each annual recertification that a student remains eligible to receive section 8 assistance under the restrictions of the new law as published in the Supplementary Guidance Notice in the April 10, 2006 Federal Register (71 FR 18146). Therefore, the owner will be required to obtain an income declaration and certification from the parents and determine their income eligibility at the time of each of the student's annual recertification in order to determine if the student continues to be eligible to receive section 8 assistance unless the student demonstrates his/her independence from parents.</p>
<p>Eligibility</p> <p>Eligible Parent and Ineligible Parent</p>	<p>If a student's parents are not living together, and when the owner assesses their income eligibility it is determined one parent is eligible and one parent is ineligible, how should the eligibility of the student be determined?</p>	<p>In this instance, the student would not be eligible to receive section 8 assistance. In order for the student to be eligible to receive section 8 assistance, both parents must also be eligible to receive section 8 assistance.</p>
<p>Eligibility</p> <p>Independence from parents</p>	<p>Does living in a dormitory count when determining the one-year period the individual must have established a household separate from parents or legal guardians?</p>	<p>No. The owner may not take into consideration the time that the individual lived in a dormitory when determining the one-year requirement.</p>
<p>Eligibility</p> <p>Pro-ration of Assistance</p>	<p>If in a household made up of several individuals, one individual is determined to be an ineligible student, how will the assistance for this household be determined? Will the assistance be prorated like it is for the non-citizen rule?</p>	<p>Assistance will not be prorated.</p> <p>If this is an applicant household, the household will be prohibited from participating in the section 8 program.</p> <p>If this is an existing household receiving section 8 assistance, the assistance will be terminated in accordance with the guidance in Chapter 8, Section 1 of Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i>.</p>

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
Eligibility	If an individual decides to enroll in a class at the community college, such as a pottery class, that is not taken for the purpose of obtaining a degree, certificate, or other recognized educational credential, is he or she considered a part-time student under the new law?	No. If the person is not enrolled in the class because it is required for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential, they would not be covered by the student restrictions of the new law.
Eligibility  Tenants Who Enroll As Students During Tenancy	How do we handle a situation where an individual is not a student at the time they move into the project but who later enrolls at an institution of higher education?	An individual's eligibility to receive section 8 assistance is based on their status at the time they move into the property. An individual who is not enrolled at an institution of higher education at the time of move-in but who later enrolls must meet the student eligibility restrictions under the new law the first time he or she is recertified after becoming enrolled as a student. The latest the student restrictions would be applied in this instance would be at the next scheduled annual recertification.
Determining Annual Income – Work Study	Is the income received by a student under the federal Work Study program included in the financial assistance in excess of tuition calculation for annual income?	Yes. Income received under the Work Study program is considered financial assistance under the Higher Education Act of 1965 and should be considered when determining the amount of financial assistance in excess of tuition that will be included in annual income.
Financial Assistance – Rent Calculation	Is the financial assistance in excess of income included in annual income for all students or only for students affected by the restrictions of Section 327(a) of the Act?	The amount of financial assistance in excess of tuition is included in annual income for <b>all</b> students applying for or receiving section 8 assistance, <b>except</b> for students who are living with their parents who are applying for or receiving section 8 assistance or if the student is over the age of 23 with dependent children.

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
Eligibility/Termination of Assistance/Eviction	Can an owner evict an ineligible student or require the student to move?	No. 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. Although the student is allowed to remain in the unit, the student will no longer be eligible to receive section 8 assistance.
Eligibility Scenario Applicant	<p>A household applying for section 8 assistance is made up of:</p> <ul style="list-style-type: none"> <li>● one person who is not a student, is head of household and has a dependent child, and</li> <li>● one student who is eligible, and</li> <li>● one student who does not meet the eligibility requirements of section 5.612</li> </ul> <p>Would this household be eligible to move-in and receive Section 8 assistance?</p>	No. The applicant household would not be eligible to move-in and receive section 8 assistance because the household contains an ineligible student. If the ineligible student decides not to be a part of the applicant household, the head of household who is not a student with a dependent child, and the eligible student would be eligible to move into an appropriate size unit and receive section 8 assistance, as long as they are eligible for the property where they are applying.

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
<p>Eligibility/ Termination of Assistance Scenario</p> <p>Current Tenants</p>	<p>A household is currently receiving Section 8 assistance. The household family is made up of:</p> <ul style="list-style-type: none"> <li>● one student who is 22 years old, is head of household, and has a dependent child</li> <li>● another student who does not meet the eligibility requirements of section 5.612.</li> </ul> <p>Is this household eligible to continue receiving Section 8 assistance?</p>	<p>No. In order for the household to be eligible for section 8 assistance, each individual student must meet the student eligibility requirements in section 5.612.</p> <p>In this example, the 22-year old student is eligible because he or she has a dependent child. However, since it has been determined that the other student is ineligible under section 5.612, the household is not eligible to receive section 8 assistance, and the assistance must be terminated in accordance with the guidance in Chapter 8, Section 1 of Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i>. The household's rent will be increased to the applicable rent for the unit (contract, basic, market), as long as the ineligible student remains in the unit.</p> <p>If the ineligible student moves out of the unit, the remaining household members may again be eligible for section 8 assistance, if available. If the household composition no longer qualifies the household for the unit size, the household may be required to move to an appropriate size unit when one is available, or, with the approval of the owner, the household may move in another eligible person as a member of the household and remain in their same unit. The owner cannot evict or require the ineligible student to move, as long as the student is in compliance with the terms of the lease.</p>

**Group 3: Applicability, Eligibility, Recertifications, Termination of Assistance, TRACS, Tenant Notifications and Rights**

Category	Question	Answer
<p>Eligibility Scenario/ Termination of Assistance</p> <p>Current Tenants</p>	<p>A current household is made up of:</p> <ul style="list-style-type: none"> <li>• two full-time students, and</li> <li>• one part-time student</li> </ul> <p>Must each student meet the eligibility requirements in section 5.612?</p>	<p>Yes, each student must meet the eligibility requirements in section 5.612 in order for the household to receive section 8 assistance. If any of the students do not meet the eligibility requirements, the section 8 assistance must be terminated in accordance with the guidance in Chapter 8, Section 1 of Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i>, and the rent will be increased to the applicable rent for the unit (contract, basic, market), as long as there is an ineligible student living in the unit.</p> <p>If the ineligible student(s) moves, the remaining household members may again be eligible for section 8 assistance, if available. If the family composition does not require the number of bedrooms in the unit, the remaining family members would be required to move to an appropriate size unit when one was available, unless the owner approves another eligible person to move in as a member of the household. The owner cannot evict or require the ineligible student to move, as long as the student is in compliance with the terms of the lease.</p>
<p>Eligibility Scenario</p> <p>Applicant</p>	<p>If an applicant household contains an ineligible student, can the household move in and pay the market rent?</p>	<p>If an applicant family has a family member who is an ineligible student, the family would be ineligible for section 8 assistance and would not be eligible to move in and pay market rent without HUD approval. (See Paragraph 3-8 of HUD Handbook 4350.3 REV-1, <i>Occupancy Requirements of Subsidized Multifamily Housing Programs</i>, for admitting ineligible applicants.)</p>

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Category	Question	Answer
<p>Eligibility Scenario</p> <p>Project Partially Assisted with Section 8</p>	<p>In a partially assisted section 236 project, if a current household is not eligible for section 8 assistance because it has a household member who is not eligible under section 5.612 can the household be recertified under the section 236 program?</p>	<p>Yes. In a partially assisted Section 236 project, if the household is found to be ineligible for section 8 assistance because it has a household member who is a student who is not eligible under section 5.612, the household should be recertified using the section 236 rent formula. However, the student must meet the student eligibility requirements currently in paragraphs 3-16 and 3-33 of Handbook 4350.3 REV-1 Change 1, <i>Occupancy Requirements for Subsidized Multifamily Housing Programs</i>.</p> <p>The requirements of the new law to include all financial assistance in excess of tuition do not apply to the section 236 program. Therefore, the financial assistance would continue to be excluded from annual income under 24 CFR 5.609(c)(6).</p>
<p>Verification</p> <p>Institution of Higher Education</p>	<p>Will the owner now be required to verify whether or not a school qualifies as an institution of higher education?</p>	<p>Yes. The owner will need to ensure that the school meets the Department of Education’s definition for an “institution of higher education as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002). See Appendix A of the Supplementary Guidance Notice published in the April 10, 2006 Federal Register (71 FR 18146).</p> <p>It should not be necessary for the owner to verify this for each student individually. Once the owner has determined that the school does or does not meet the definition, he or she can use the same supporting documentation for each tenant attending that particular school.</p>
<p>TRACS</p>	<p>Will new HUD-50059 eligibility codes be issued to designate whether or not a household member is an eligible student?</p>	<p>Yes. New HUD-50059 eligibility codes will be added in a future release to TRACS.</p>

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Category	Question	Answer
TRACS	Will new HUD-50059 codes be issued to designate a household where assistance has been terminated because a household member is an ineligible student? If not, what code should be used?	Yes. New HUD-50059 eligibility codes will be added in the future. Until such time as a new code is established in TRACS, owners should use the current code “TI = Equals/Exceeds Gross Rent” when terminating the assistance of households where a member of the household is an ineligible student.
TRACS	Should owners continue using the Special Status Code “S” on the HUD-50059 to designate full-time student status?	Yes. The Special Status Code “S” should continue to be used for full-time students over the age of 18 who live in assisted housing with their parents who are receiving section 8 assistance.
Notification Procedures	Will HUD be providing any resident notification procedures for owners or management agents to use when implementing sections 5.609(b)(9) or 5.612 to inform current residents of the potential loss of subsidy?	No. HUD will not be providing owners or management agents with resident notification procedures.
Applicant/ Tenant Rights	Is there any process for students to appeal the owner’s or management agent’s decision under these regulations?	Owners are required to provide applicants the opportunity to meet with them to discuss any rejection for admittance. Tenants are to be provided the same opportunity when notified that their assistance is being terminated. See paragraphs 4-9 and 8-6 of Handbook 4350.3 REV-1, <i>Occupancy Requirements for Subsidized Multifamily Housing Programs</i> , the HUD Model Lease for Subsidized Programs and the Model Lease for Section 202/8.
Federally Mandated Exclusion	How does 5.609(b)(9) affect the Federally mandated exclusion of “Amounts of scholarships funded under title IV of the Higher Education Act of 1965,” including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)?	5.609(b)(9) does not apply to individuals applying for or receiving section 8 assistance. The Federally mandated exclusion continues to be in effect for other Multifamily Housing programs.
Model Leases	Is HUD going to be adding language to the model leases to cover these requirements?	No. The HUD model leases will not be revised to include the student eligibility requirements.

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<b>Category</b>	<b>Question</b>	<b>Answer</b>
Tenant Selection Plans	Should the owner revise the project's Tenant Selection Plan to include the requirements of the Final Rule?	Yes, owners should immediately update their Tenant Selection Plans to include the student eligibility and income requirements.  Owners should notify applicants on their waiting list and current residents of the new student eligibility requirements.