

## Exhibit 2-7 Student Rule

### 1. Eligibility

#### HUD Regulation – 24 CFR 5.612

No assistance shall be provided under section 8 of the 1937 Act to any individual who:

- (a) Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);
- (b) Is under 24 years of age;
- (c) Is not a veteran of the United States military;
- (d) Is unmarried;
- (e) Does not have a dependent child;
- (f) Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005; and
- (g) Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

#### AHFC Policy

A student enrolled in an institute of higher education is eligible for assistance if the student meets one or more of the conditions above and all other eligibility requirements.

AHFC is required to verify eligible student status prior to an offer of admission, at regular examinations, and when a family reports a change in composition to add a student to the household.

#### 1.A Independent Student

See the Definitions section of this policy for the definition and criteria to establish independent student status.

#### 1.B Verification of Independent Status

AHFC may gather all necessary information to determine a student's independent status. If a student's parent or guardian does not return requested information and AHFC cannot otherwise verify the student's independence, then the student is not eligible for housing assistance.

### **1.C Ineligible Student Residency**

If a student is determined to be ineligible and resides in or with an assisted family in an AHFC Multifamily property, AHFC will not terminate the tenancy. The student or family will be required to pay the market rent for the unit after proper notice from AHFC.

## **2. Income**

### **HUD Regulation – 24 CFR 5.609(b)**

Annual income includes, but is not limited to:

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.

### **HUD Regulation – 24 CFR 5.609(c)**

Annual income does not include the following:

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;  
(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

### **Public & Indian Housing Notice 2015-21<sup>1</sup>**

In implementing the amended definition of tuition, for section 8 programs only, O/As and PHAs must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9).

### **AHFC Policy**

Financial assistance in excess of tuition and any other required fees that an individual receives under the Higher Education Act of 1965, from private sources, or an institution of higher education shall **NOT** be considered income if the student is:

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<sup>1</sup> Public and Indian Housing Notice 2015-21 and Housing Notice 2015-12 issued December 10, 2015, “Amendment to the Definition of Tuition.”

1. Living with his/her parents in a Section 8 assisted unit, or
2. Living with his/her parents who are applying to receive Section 8 assistance, or
3. A Section 8-assisted person over the age of 23 with dependent children.

For a public housing resident who is a student, the full amount of student financial assistance is not regarded as income. See the definition of full-time student.

## **2.A What to Count**

For all other students, financial assistance in excess of tuition and required fees, as shown below, includes the following.

1. Higher Education Act income:
  - a) Pell Grants
  - b) Federal Supplement Educational Opportunity Grants,
  - c) Academic Achievement Incentive Scholarships
  - d) State Assistance under the Leveraging Educational Assistance Partnership Program
  - e) Robert G. Byrd Honors Scholarship Program
  - f) Federal Work Study programs
  - g) G.I. Bill
2. Assistance from private (non-government) sources including parents, guardians, other family members, or other persons, whether these persons reside in the unit or not.
3. Income from an institution that the institution considers financial assistance.

## **2.B Independent Student Income**

If a student has verified his/her independent status, but still receives income from family members, AHFC is required to verify that income.

## **3. Definitions**

The following definitions are from the HUD 4350.3 HUD Occupancy Handbook.

### **3.A Dependent Child**

Dependent Child in the context of the new eligibility restrictions, means a dependent child of an enrolled student who meets the criteria of 24 CFR 5.612. In this context, "dependent child" is defined in HUD's income eligibility regulations at 24 CFR 5.603 is

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 is a full-time student.

Public Housing – 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 is a person with a disability, or is a full-time student.

### **3.B Financial Assistance**

Financial Assistance included in annual income is any financial assistance that a student receives in excess of tuition and required fees (e.g., athletic and academic scholarships) and that the student receives (1) under the Higher Education Act, (2) from private sources, or (3) from an institution of higher education as defined by the Higher Education Act of 1965. Financial assistance does not include loan proceeds.

#### **3.B.1. Higher Education Act Assistance**

Higher Education Act Assistance under the Higher Education Act of 1965 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.

#### **3.B.2. Assistance from Private Sources**

Assistance from Private Sources is nongovernmental sources of assistance, including assistance that may be provided to a student from parent, 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.

#### **3.B.3. Assistance from an Institution of Higher Education**

Assistance from an Institution of Higher Education requires reference to the particular institution and the institution's listing of financial assistance (see definition for Institution of Higher Education.)

#### **3.B.4. Loans Are Not Financial Assistance**

Loans are not financial assistance, and, therefore, the loan programs cited in the Higher Education Act of 1965 (the Perkins, Stafford and Plus loans) are not included in the term "financial assistance" in determining student eligibility for section 8 assistance.

### **3.C Full-Time Student**

A person who is attending school or vocational training on a full-time basis [24 CFR 5.603].

Public Housing – the head or spouse can never be classified as a student.

### **3.D Independent Student**

For a student to be eligible independent of his or her parents (where the income of the parents is not relevant), the student must demonstrate the absence of, or his or her independence from, parents. While owners may use additional criteria for determining the student's independence from parents, owners must use, and the student must meet, at a minimum all of the following criteria to be eligible for Section 8 assistance. The student must:

1. Be of legal contract age under state law;
2. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, or, meet the U.S. Department of Education's definition of an independent student;
3. Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; and
4. 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.

### **U.S. Department of Education Independent Student<sup>2</sup>**

To be classified as an independent student, the student must meet the Independent Student definition for Title IV aid. The student must meet one or more of the following criteria:

1. The individual is 24 years of age or older by December 31 of the award year;
2. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
3. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;
4. The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes;
5. The individual is a graduate or professional student;
6. The individual is a married individual;
7. The individual has legal dependents other than a spouse;
8. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless

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<sup>2</sup> Section 604 of the College Cost Reduction and Access Act of 2007 (Public Law 110-84, 121 Stat. 784, approved September 27, 2006).

Assistance Act) (42 U.S.C. 11431 et seq.), or as unaccompanied, at risk of homelessness, and self-supporting, by –

- a) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;
  - b) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
  - c) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
  - d) a financial aid administrator; or
9. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

### **3.E Institution of Higher Education**

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

1. From 20 U.S.C. 1001:
  - a) For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that:
    - 1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
    - 2) Is legally authorized within such State to provide a program of education beyond secondary education;
    - 3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
    - 4) Is a public or other nonprofit institution; and
    - 5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of

preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

- b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter 1 of chapter 34 of Title 42, the term “institution of higher education” also includes:
    - 1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4) and (5) of subsection (a) of this section; and
    - 2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(2) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
  - c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.
2. From 20 U.S.C. 1002:
- a) Definition of institution of higher education for purposes of student assistance programs.
    - 1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title:
      - (A) A proprietary institution of higher education (as defined in subsection (b) of this section);
      - (B) A postsecondary vocational institution (as defined in subsection (c) of this section); and
      - (C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title

and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless -

(B)

(i) In the case of a graduate medical school located outside the United States -

(I)

(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of



this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall –

(I) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule If the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information

The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule

If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B [1] while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

3) Limitations based on course of study or enrollment

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution –

(A) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title; [1]

(B) enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that

meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

4) Limitations based on management

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) the institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere

or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

5) Certification

The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

6) Loss of eligibility

An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

b) Proprietary institution of higher education

1) Principal criteria

For the purpose of this section, the term "proprietary institution of higher education" means a school that—

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1) and (2) of section 1001(a) of this title;

(C) does not meet the requirement of paragraph (4) of section 1001(a) of this title;

(D) is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) has been in existence for at least 2 years; and

(F) has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

2) Additional institutions

The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

c) Postsecondary vocational institution

1) Principal criteria

For the purpose of this section, the term “postsecondary vocational institution” means a school that –

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) has been in existence for at least 2 years.

2) Additional institutions

The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

### **3.F Noncitizen Student**

A noncitizen student is defined as an individual who is as follows:

1. A resident of another country to which the individual intends to return;
2. A bona fide student pursuing a course of study in the United States; and
3. A person admitted to the United States solely for the purpose of pursuing a course of study as indicated on a F-1 or M-1 student visa.

See Meet Citizenship Requirements exhibit.

### **3.G Required Fees**

Required fees include all fixed sum charges that are required of a large proportion of all students. Fees often include, but are not limited to, student service fees, student

association fees, student activities fees, and laboratory fees. Examples also include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Expenses related to attending an institution of higher education must not be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

### **3.H Student**

Student for Section 8 eligibility purposes means all students enrolled either full-time or part-time at an institution of higher education. The law does not exempt part-time students.

### **3.I Tuition**

The Department of Education defines tuition as the amount of money charged to students for instructional services which may be charged per term, per course, or per credit. The Department of Education further defines tuition and fees as the amount of tuition and required fees covering a full academic year most frequently charged to students. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition.

Tuition shall have the meaning given this term by the institution of higher education in which the student is enrolled.

### **3.J Veteran**

The definition for veteran, as used by the Department of Veterans Affairs, is codified at 36 U.S.C. 101(2), may be used when determining a student's eligibility for Section 8 assistance. Since use of this definition is widespread in other federal programs affecting veterans, PHAs, Owners and Managers may find it useful to adopt this definition for purposes of administering the student eligibility restrictions.

Definition of veteran from 38 U.S.C. 101(2): The term "veteran" 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.

## **Numbered Memo**

18-15 Exhibit 2-7, Student Rule