

Exhibit 2-1 Qualify as a Family

HUD Regulation – 24 CFR 880.601(b)

The owner is responsible for all management functions, including determining eligibility of applicants, selection of tenants, reexamination and verification of family income and composition ...

1. Definition of Family

HUD Regulation – 24 CFR 5.403

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

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

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

(i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);

(ii) An elderly family;

(iii) A near-elderly family;

(iv) A disabled family;

(v) A displaced family; and

(vi) The remaining member of a tenant family.

HUD Regulation – 24 CFR 880.201

Family. As defined in part 5 of this title.

AHFC Policy

AHFC also includes the following in its definition of family. A group of persons residing together. This includes:

1. A student temporarily away at college or boarding school.
2. A child who will live in the household at least 50 percent of the time per a custodial agreement.
3. Unborn children of pregnant women. These persons are counted when determining whether a family meets the income limit and for purposes of subsidy.

4. Two or more previously unrelated disabled/elderly persons who choose to live together due to financial, not familial status. This encourages those individuals who are interested in sharing or pooling their resources to do so.

1.A Applicant

HUD Regulation – 24 CFR 5.403

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

1.B Continued Occupancy

For purposes of continued occupancy, the term family also includes the remaining member of a participant family with the capacity to execute a lease. See Last Remaining Family Member below.

2. Individual Member Definitions

The following definitions are derived from the HUD definitions. See the Income Determination and Verification chapter for verification procedures for individual categories.

2.A Adult

Any person who is:

- 18 years of age or older;
- A 16 or 17 year old minor legally emancipated or married

2.B Co-Head of Household

This is an individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

2.C Disabled Family

HUD Regulation – 24 CFR 5.403

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

2.D Person with Disabilities

HUD Regulation – 24 CFR 5.403

Person with disabilities:

(1) Means a person who:

- (i) Has a disability, as defined in 42 U.S.C. 423;
- (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

- (A) Is expected to be of long-continued and indefinite duration;
 - (B) Substantially impedes his or her ability to live independently, and
 - (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- (iii) Has a developmental disability as defined in 42 U.S.C. 6001.

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

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

(4) Means “individual with handicaps”, as defined in § 8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

2.E Displaced Family

HUD Regulation – 24 CFR 5.403

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

2.F Elderly Family

HUD Regulation – 24 CFR 5.403

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

2.G Elderly Person

HUD Regulation – 24 CFR 5.100

Elderly Person means an individual who is at least 62 years of age.

2.H Full-Time Student

HUD Regulation – 24 CFR 5.603

Full-time student. A person who is attending school or vocational training on a full-time basis.

AHFC Policy

Under 24 CFR 5.612, adult students may be ineligible for assistance. See the Student Rule exhibit.

2.I Head of Household

The adult member of the household who is designated by the family as the head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under state/local law. Emancipated minors who qualify under state law can be recognized as the head of household.

2.J Household

HUD Regulation – 24 CFR 5.100

Household, for purposes of 24 CFR part 5, subpart I, and parts, 960, 966, 882, and 982, means the family and PHA-approved live-in aide.

2.K Live-In Aide

HUD Regulation – 24 CFR 5.403

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

- (1) Is determined to be essential to the care and well-being of the persons;
- (2) Is not obligated for the support of the persons; and
- (3) Would not be living in the unit except to provide the necessary supportive services.

AHFC Policy

These persons are not considered part of the family's household when calculating income, but will count towards the subsidy standard. See the Live-In Aide exhibit.

2.L Minor or Youth

This is an individual who is under the age of 18.

2.M Near-Elderly Family

HUD Regulation - 24 CFR 5.403

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

2.N Spouse

This is the husband or wife of the Head of Household who is equally responsible for the lease with the Head of Household. For proper application of the Noncitizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would require a divorce. It includes the partner in a common law marriage, but does not apply to boyfriends, girlfriends, significant others, or co-heads.

3. Changing Household Members

Changes to family composition must be reported, in writing, to AHFC within **ten (10) business days** of the change. See the Interim Examination exhibit for any required changes to a family's annual income as a result of changes to household members.

3.A Addition of Family Members

With the exception of members added due to birth or adoption, the addition of family members requires the pre-approval of AHFC. An EIV report will be pulled for the family within 120 days of the effective date for an addition of a family member.

3.A.1. Adults

Adults wishing to be added to a family must meet all of AHFC's screening criteria, before they can be added to the household.

3.A.2. Minors

Families wishing to add minors (household member under 18 years of age) to a household must provide the appropriate verification as stated in Chapter 3.

3.B Removal of Family Members

To remove a family member, AHFC must receive verification of the family member's intent to leave or departure from the household.

4. Breakup of Family

AHFC will determine, on a case-by-case basis, which member of an assisted family continues to receive the rental assistance if the family breaks up. Staff will forward the facts to a supervisor or regional manager for a decision. Factors AHFC will consider in weighing continued assistance to particular family members include, but are not limited to:

- The assistance remaining with the family who remains in the original unit.
- To whom the rental assistance was initially issued.
- The family member who has sole or primary physical custody of minor children or who has primary responsibility for the care of ill, elderly, or disabled family members.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, AHFC is bound by the court's determination of which family members continue to receive assistance in the program.
- Other factors or mitigating circumstances presented to AHFC.

AHFC will provide a decision in writing to the family members who are breaking up. See the Violence Against Women Act exhibit for VAWA protections.

5. Last Remaining Family Member

If the head of household dies or leaves the unit permanently, the remaining family members qualify as a family if there is at least one individual (not a live-in aide) of legal age and capacity to execute the lease living in the family.

5.A Minor Children Only

AHFC may allow an adult, who is not a current member of the family, to be a new head of household after the death or departure of the original head of household when the only family members remaining in the unit are minors. The new head of household must pass AHFC's screening criteria.

5.B Court-Appointed Guardian

In cases where the remaining family members are orphaned children, a court-appointed guardian may be considered the last remaining adult family member if that person otherwise passes the screening requirements.

6. Grievance Process

All decisions regarding the removal or addition of family members are given to the family in writing. If the family disagrees with an AHFC decision, they may request to participate in AHFC's S8N Multifamily Housing Program Tenant Administrative Review.

Numbered Memo

17-21 Updated Exhibit 2-1 Qualify as a Family