
42 U.S. Code § 1437n

Eligibility for assisted housing

(a) Income eligibility for public housing

(1) Income mix within projects

A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA income mix

(A) ~~11~~Targeting.—

Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by extremely low-income families.

(3) Prohibition of concentration of low-income families

(A) Prohibition

A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(B) Deconcentration

(i) In general

A public housing agency shall submit with its annual public housing agency plan under section 1437c-1 of this title an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) Incentives

In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) Family choice

Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to

accept an incentive and occupancy of a project described in clause (i)(II),^[2] *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 1437d(s)^[3] of this title.

(4) Fungibility with tenant-based assistance

(A) Authority

Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) Credit for exceeding tenant-based assistance targeting requirement

Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

- (i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 1437f of this title by the agency; exceeds
- (ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) Limitations on credit number

The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

- (i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 1437f of this title by the agency in such fiscal year; or
- (ii) the number of public housing dwelling units of the agency that—
 - (I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and
 - (II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) Fungibility floor

Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(E) Qualified family

For purposes of this paragraph, the term “qualified family” means a family having an income described in subsection (b)(1).

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