

**“I’m supposed to write a Public Housing policy on WHAT? Where do I start?”**

MN NAHRO  
Spring  
Conference  
May 27,  
2011

Al Hester  
Alicia Huckleby  
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**What’s a Policy ?**

- Board approved statement of (with or without a resolution)
- Broad scope, not specific to particular incidents
- “A high-level overall plan embracing the general goals and acceptable procedures especially of a governmental body” (Merriam-Webster)

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**What Are Policies - NOT?**

- Policies are not “administrative procedures” or “practices”.
  - Executive Director or designee has authority to approve and revise procedures
  - Policies don’t specify which staff person, which form, etc.
  - Policies shouldn’t limit agency flexibility to adapt to changing needs and conditions
- Don’t invite Commissioners to micro-manage your agency.

3

**How do I know when my agency needs a policy ?**

- HUD says so in regulations or PIH notices.

Public Housing regulations:  
“The PHA shall establish and adopt written policies for admission of tenants.”  
(24 CFR Sec. 960.202 Tenant selection policies)

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**How do I know when my agency needs a policy ?**

- Policy issues: Should our HA give admissions priority to certain groups?
  - People with disabilities?
  - Low-income working people?
  - Victims of domestic abuse?
  - Students?
- Discretionary: “A PHA may consider . . . .”

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**HUD Says So, cont’d**

**HUD Notice PIH 2010 - 19 (HA)** Issued: May 17, 2010  
**SUBJECT: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System**

23. **Updating of PHA Policies and Procedures. PHAs are required to immediately implement all new and modified regulatory requirements ...**

- The Department recognizes that many PHAs have already begun to modify existing policies and procedures to reflect use of EIV during all mandatory annual and interim reexams.
- PHAs should immediately update their policies and procedures to reflect these new regulatory provisions.

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### Other times when your agency should think about a new policy...

- Response to a court case, hearing decision, audit finding or HUD monitoring review.
- New agency staff or commissioners ask, "Do we have a policy on...?"
- A resident or applicant (or Legal Services) challenges agency procedures

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### When your agency may NOT need a new policy...

- When an isolated case falls through the cracks. (Policies can't solve every situation.)
- When not required, consider administrative burden and possible loss of flexibility.
- When you don't know the impact; few cases, potential hardships (bad publicity)
  - Extended absence from the public housing unit.
- When a trainer (including me) says you should have a policy on \_\_\_\_\_.

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### What good is a policy ?

- Policies are the foundation for agency procedures and practices.
  - Demonstrate compliance with laws and regulations.
  - Assure consistency in program administration.\*
- (\* If staff follow them consistently)

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### Types of Policies

#### MANAGING PUBLIC HOUSING:

- "Admission & Occupancy Policies": AOP; A&O Policy/Policies
- "Admission & Continued Occupancy Policies": ACOP
- Fair Housing Policy

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### Types of Policies, Cont'd

#### THE "BUSINESS SIDE":

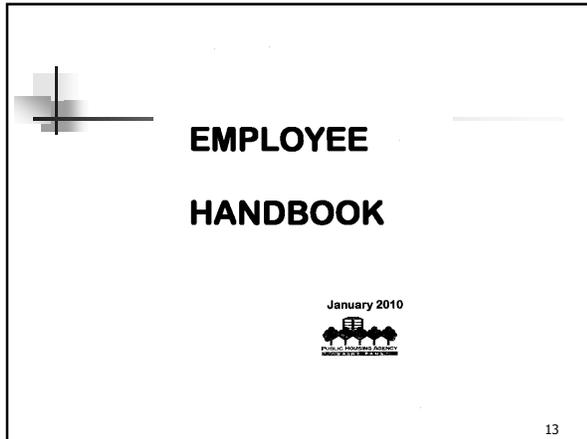
- Personnel Policy
- Purchasing Policy (ARRA)
- Conflict of Interest Policy (Board and Staff)
- Section 3 Policy
- FMLA Policy

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### Types of Policies, Cont'd

- Equal Employment Opportunity/Affirmative Action
- Computer Use Policy
- Workplace Violence Prevention Policy
- Policy on Board – Staff Relationships?
- Other Examples: See St. Paul PHA Employee Handbook

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### How Much Detail in Policies ?

Who's the audience?

- Board and Staff
- Applicants and Residents
- Lawyers and other advocates
- The "Public": Service providers, neighbors
- Elected officials?
- HUD – Field office, OIG

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### How Much Detail in Policies ?

- Copy from Regulations and Notices, or just insert references?
- Cross reference other policies
- Keep it simple?

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### Process: Who should be involved in drafting and reviewing policies ?

- Talk to staff who are or will be affected: Supervisors, line staff
- Involve Residents:
  - Resident Commissioners
  - Resident Councils, Informal leaders
- If a "significant modification" of policy is involved, it requires an Agency Plan revision with Resident Advisory Board (RAB) input.

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### Process: Is notice to residents required by regulations?

- HUD regulations:
  - 24 CFR Sec. 966.5 (Posting of policies...)
  - 24 CFR Sec. 903.12, 903.13, 903.17 (Agency Plan)
- See sample notice to residents
- Give notice before or after Board approval?

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### Process: If notice to residents is required by regulations

- "Staff is recommending that the changes be made effective February 1, 2010, to allow the 30-day period required by HUD regulations for resident comments. If the Board approves the staff's recommendations, notice of the changes will be sent to all public housing residents and to the Resident Advisory Board, the City-Wide Residents Council and the Hi-Rise Residents Council. If any substantive comments are received, staff will provide a supplemental report to the Board for the January 27, 2010 meeting."

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### Process: Who else should be involved in drafting and reviewing policies ?

- HUD – Field office staff ?
- Legal Services, advocacy organizations ?
  - If yes, involve them early in the process, or just give notice of final draft recommended for Board approval?

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### Process, Cont'd

- Study your own current policies (all of them)
- Revise current language or insert new?
- Combine existing, separate provisions?
- Pick a suitable insertion point for new provisions
- Maintain existing structure; for example, Part One, A.2.c.(ii) (Easy to find and cite?)

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### Process, Cont'd

- Board approval (Resolution?)
  - "Staff recommends approval of Resolutions No. \_\_\_ to revise the Public Housing [A&O] Policy to clarify when public housing residents may transfer between units."
- (Revise Table of Contents and Index)
- Post revised policies
- Send copy to HUD Field office as FYI, not for approval.

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### Discussion Situations: "How do I write a policy on...?"

- Section 3
- LEP – Limited English Proficiency
- VAWA –Violence Against Women Act
- Tenant Income Reporting
- Waiting List - Cancellation and Reinstatement
- Smoking
- Reasonable Accommodation

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### What if I already have a Policy ?

Example: HUD NOFA (for a Section 8 grant program) required PHA to have an "Code of Conflict" in Admin Plan.

- St. Paul PHA approved an Appendix to Section 8 Admission & Occupancy Policies "incorporating by reference" the PHA's existing Policies on Conflict of Interest.

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### Example: Reasonable Accommodation Policy

- Reasonable Accommodation (RA) **decision** is really a product of federal law, Fair Housing Act.
- **Policy** establishes a plan to process requests, demonstrate compliance, properly defer to federal law.
  - An extension of Equal Opportunity Housing Plan.
- Are forms necessary? Helpful?
- Grant a hearing on an RA denial?

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## RA Policy, cont.

### **Chief Components:**

- Interactive Dialogue should be present in all requests.
- What is disability?
- How does disability cause need for accommodation?
- Accommodation must be reasonable.

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## RA Policy Discussion

- In context of "modification?"
  - Grab-rails, wheel-chair ramp
- In context of "exception in rules, policies, practices or procedures?"
  - Unit transfer, wants social worker copied on bills, wants two pets instead of one.
- In context of "termination?"
  - Disability caused repeated late rent, resulting in termination.

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## Example: Pet Policy

- The regulations "permit pet ownership by residents of public housing, subject to compliance with reasonable requirements established by the public housing agency (PHA) for pet ownership." 24 C.F.R. § 960.701.
- PHA should establish a policy on deposits, animal size, density, etc. that works for your agency.

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## Pet Policy, cont.

- A resident with a disability asks to have an animal that is not allowed by the Pet Policy.
- Remember: They are requesting a "reasonable" accommodation in "rules, policies, practices, or services, when such services may be necessary to afford such person equal opportunity to use and enjoy a dwelling." Fair Housing Act, § 3604.
- Answer: Reasonable Accommodation may supersede Pet Policy.

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## Pet Policy, cont.

- "PHAs may not apply or enforce any policies established under this subpart against animals that are necessary as a reasonable accommodation to assist, support or provide service to persons with disabilities." 24 C.F.R. § 960.705(a).
- "Nothing in this subpart ... affects any authority that PHAs may have to regulate service animals that assist, support, or provide service to persons with disabilities under Federal, State, or local law." 24 C.F.R. § 960.705(b).

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## Reasonable Accommodation: Service Animal/Companion Animal

### Same Questions:

- Does the request directly result from a disability-related need?
- Verified by a physician? (Both the disability and the need for a reasonable accommodation?)
- If so, is it otherwise unreasonable (undue cost or administrative burden on PHA)?

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### Pet Policy, cont.

- Pet Deposits?
- Loud pets?
- Threatening pets?
- Large pets?
- "Exotic pets"? (St. Paul City Ordinance)
- Prohibiting pets in certain areas?
- Number of Pets/Animals allowed?

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### Reasonable Accommodation: Service Animal/Companion Animal

- Must the resident show proof that the animal has special training?
  - Service Animal - Yes ?
  - Companion Animal – No ?
- Must the PHA waive its rules about pet deposits, vaccinations, spay/neuter; no dogs at certain locations?

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### Resources for Drafting Policies and Procedures

- Internet: [www.hud.gov](http://www.hud.gov)
  - PIH Library
  - HUD User
  - HUDClips

LEP Note: Many HUD forms are available in multiple languages on HUD's FHEO-LEP website.

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### Resources for Policy Drafting

- Statutes: 42 USC Sec 1437
- [http://www.law.cornell.edu/uscode/html/uscode42/usc\\_sup\\_01\\_42\\_10\\_8\\_20\\_I.html](http://www.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_8_20_I.html)
- HUD PIH Notices: PIH 2011-\_\_
- [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/publications/notices](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices)

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### Resources for Policy Drafting

- HUD regulations: 24 CFR Chapter 9 (IX)
  - Public Housing: 24 CFR Part 960 etc.
  - Section 8: 24 CFR Part 982 etc.
  - <http://www.gpoaccess.gov/cfr/index.html>
  - <http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200924>

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### Resources, Cont'd

- HUD Public Housing Occupancy Guidebook (2003)
  - <http://www.hud.gov/offices/pih/programs/ph/rhiip/phguidebook.cfm>
- NAHRO, PHADA websites
- St. Paul PHA website: [www.stpaulpha.org](http://www.stpaulpha.org)

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## Handouts; Policy Resources

- St Paul PHA Documents
  - St. Paul PHA Public Housing Policy on "Move-Out Hearing Procedures"; Required to file claims under MN Revenue Recapture Act  
(Appendix to Admission & Occupancy Policies)

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## So How Do I Write It?

- How would you say it ?
- Use active voice, not passive, as much as possible:
  - Say WHO will do WHAT
- May/can/will/shall/must - Which is it?

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## So How Do I Write It?

### Plain English ?

3/30/2011 Federal Register HUD Notice:

- "Certification of Consistency and Nexus Between Activities Proposed by the Applicant With Livability Principles Advanced in Preferred Sustainability Status Communities"
- (HUD Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request)

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## More on Reasonable Accommodation Policy

- RA Policy: Federal law governs.
- Policy/procedures demonstrate PHA's compliance in processing reasonable accommodation requests.
- Policy may be reviewed by HUD or local Department of Human Rights, investigating a complaint or conducting an audit (FHEO).

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## Reasonable Accommodation Policy

- The Reasonable Accommodation policy should be "Reader-friendly".
- Policy should not too specific because it's a changing area of the law.
- Good PHA forms can help implement the policy and protect the agency – but do they limit flexibility?

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## Reasonable Accommodation Example

Example 1: Resident requests an additional bedroom for herself because of a disability.

Questions:

- Does the request directly result from a disability-related need?
- Verified by a physician? (Both the disability and the need for a reasonable accommodation?)
- If so, is it otherwise unreasonable (undue cost or administrative burden on PHA?)

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### Reasonable Accommodation: Example 1, Cont'd

- Does PHA policy give you adequate guidance while allowing room to interpret the law?
- Can PHA document consistent treatment of similar requests, if asked?

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### Reasonable Accommodation: Absence From Unit

Example 2: Resident requests time away from unit for medical treatment, or to care for a relative with a disabling condition.

- Review policy on absence from unit. Review regulations on same subject.
- Does time exceed that allowed by your policy? Is exception appropriate?

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## "I'm supposed to write a Public Housing policy on WHAT? Where do I start?"

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## “I’m supposed to write a Section 8 policy on WHAT? Where do I start?”

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- Don’t invite Commissioners to micro-manage your agency.

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## How do I know when my agency needs a policy ?

- HUD says so in regulations or PIH notices.
- Section 8 regulations:
  - “The PHA must adopt a written administrative plan that establishes local policies for administration of the program in accordance with HUD requirements.”
  - (24 CFR § 982.54 Administrative Plan.)

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## HUD Says So, cont’d

Section 8 Administrative Plan:

- “The administrative plan and any revisions of the plan must be formally adopted by the PHA Board of Commissioners or other authorized PHA officials. . . .

24 CFR § 982.54

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## HUD Says So, cont’d

- “The administrative plan states PHA policy on matters for which the PHA has discretion to establish local policies. . . .
- “The PHA administrative plan must cover PHA policies on these subjects:
  - (1) Selection and admission of applicants from the waiting list...

24 CFR § 982.54

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  - Prohibit adding anyone to the lease?
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(\* If staff follow them consistently)

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## Types of Policies

MANAGING SECTION 8:

- Section 8 Administrative Plan
  - "Admission & Occupancy Policies": AOP; A&O Policies
  - "Admission & Continued Occupancy Policies": ACOP
  - "Leasing & Occupancy Policies"
- Fair Housing Policy

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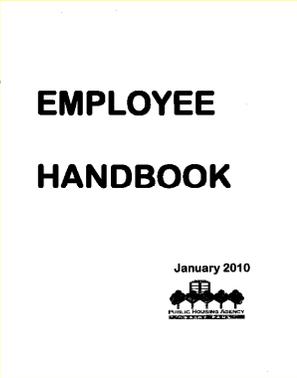
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**EMPLOYEE  
HANDBOOK**

January 2010

  
MINNESOTA NAHRO

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### How Much Detail in Policies ?

Who's the audience?

- Board and Staff
- Applicants and Participants; Property Owners
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### Process: Who should be involved in drafting and reviewing policies ?

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- HUD – Field office staff ?
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  - If yes, involve them early in the process, or just give notice of final draft recommended for Board approval

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### How to communicate Section 8 Policy to participants?

Regulation states:

"The PHA must give the family a written description of

- (1) Family obligations under the program...and
- (2) The grounds on which the PHA may deny or terminate assistance because of family action or failure to act."

24 C.F.R. § 982.552(d)

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### How to communicate Section 8 Policy to participants?

- St. Paul PHA has developed a "Family Obligations Certification" to communicate policies that could lead to their termination.
- Reviewed at annual recertification and signed by participant.

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### So How Do I Write It?

Plain English ?

Here's a bad example:

- "Certification of Consistency and Nexus Between Activities Proposed by the Applicant With Livability Principles Advanced in Preferred Sustainability Status Communities"

3/30/2011 Federal Register Notice: HUD Notice of Submission of Proposed Information Collection to OMB: Emergency Comment Request

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### Discussion Situations: "How do I write a policy on...?"

- LEP – Limited English Proficiency
- VAWA –Violence Against Women Act
- Tenant Income Reporting
- Waiting List - Cancellation and Reinstatement
- Reasonable Accommodation
- Lease-ons; changing Head of Household
- Subsidy Standards

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### Example: Reasonable Accommodation Policy

- RA Policy: Federal law governs.
- Policy/procedures demonstrate PHA's compliance in processing reasonable accommodation requests.
- Policy may be reviewed by HUD or local Department of Human Rights, investigating a complaint or conducting an audit (FHEO).

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### Example: Reasonable Accommodation Policy

- The Reasonable Accommodation policy should be "reader-friendly".
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### Section 8 and Reasonable Accommodation: Example 1

Example 1: Resident requests an additional bedroom for herself because of a disability.

Questions:

- Does the request directly result from a disability-related need?
- Verified by a physician? (Both the disability and the need for a reasonable accommodation?)
- If so, is it otherwise unreasonable? (undue cost or administrative burden on PHA?)

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### Section 8 and Reasonable Accommodation: Example 1, Cont'd

- Does PHA policy give you adequate guidance while allowing room to interpret the law?
- Can PHA document consistent treatment of similar requests, if asked?

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### Example 2: St. Paul PHA Policy on Section 8 Shopping Time

- An applicant who cannot find a suitable unit within 60 days after a Voucher is issued, but who intends to continue to look for one, must request in writing an extension from the PHA.
- According to policy, the PHA may grant a family an extension of up to 30 days.
- Additional extension for RA only—*not* in policy.

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### Reasonable Accommodation: Section 8 Absence From Unit

Scenario: Resident requests time away from unit for treatment of disabling condition. Time exceeds 180 days.

- Review policy on absence from unit. Review regulations on same subject.
- Does time exceed that allowed by your policy? Is exception appropriate?

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### Reasonable Accommodation: Section 8 Absence example

- Regulation states: "The family may be absent from the unit for brief periods. For longer absences, the PHA administrative plan establishes the PHA policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance." 24 C.F.R. § 982.312

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### Resources for Drafting Policies and Procedures

- Internet: [www.hud.gov](http://www.hud.gov)
  - PIH Library
  - HUD User
  - HUDClips

LEP Note: Many HUD forms are available in multiple languages on HUD's FHEO-LEP website.

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### Resources for Policy Drafting

- Statutes: 42 USC Sec 1437
- [http://www.law.cornell.edu/uscode/html/uscode42/usc\\_sup\\_01\\_42\\_10\\_8\\_20\\_1.html](http://www.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_8_20_1.html)
- HUD PIH Notices: PIH 2011-\_\_
- [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/publications/notices](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/publications/notices)

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## Resources for Policy Drafting

- HUD regulations: 24 CFR Chapter 9 (IX)
  - Section 8: 24 CFR Part 982 etc.
  - <http://www.gpoaccess.gov/cfr/index.html>
  - <http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200924>

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## Resources, Cont'd

- NAHRO, PHADA websites  
[www.nahro.org](http://www.nahro.org)  
[www.phada.org](http://www.phada.org)
- St. Paul PHA website:  
[www.stpaulpha.org](http://www.stpaulpha.org)

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## Handouts; Policy Resources

- St Paul PHA Documents
  - Section 8 Policy on Students' Eligibility for Vouchers
  - Reasonable Accommodation
  - Section 8 Subsidy Standards

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