

PETRA
Resident Participation, Rights and Protections
Side by Side Comparison with Current Law

Issue	PETRA	Public Housing	Housing Choice Voucher	Multifamily	Comment
Right to Organize	<p>PHAs and owners would be prevented from impeding the reasonable efforts of tenants to organize or the tenant organizations to represent their members.ⁱ</p> <p>PHAs and owners administering rental assistance must recognize legitimate tenant organizations and give reasonable consideration to concerns raised by legitimate tenant organizationsⁱⁱ concerning tenants' living environment and the terms and conditions of their tenancy.ⁱⁱⁱ</p> <p>Tenant organizations must be independent of the PHA, owners, management and their representatives.^{iv}</p> <p>A tenant organization is legitimate if it</p> <ul style="list-style-type: none"> • Meets regularly • Operates democratically and • Is broadly representative.^v 	<p>Although HUD regulations (24 CFR part 964) promulgate significant rights to organize for public housing residents, there is currently <i>no statutory authority providing a right to organize.</i></p>	<p>Protected organizing rights specific to HCV residents <i>do not exist in HCV regulation or statute</i></p>	<p>Tenant groups, which may be organized by tenants or non-tenants, must be recognized by Multifamily housing owners. Owners must not impede the reasonable efforts of resident tenant organizations to represent their members or the reasonable efforts of tenants to organize.^{vi}</p>	<p>To ensure tenants can join together to advocate for themselves and their families, PETRA will substantially strengthen the rights of recipients of HUD-funded rental assistance to organize.</p>
Funding for Resident Participation	<p>Of the funding requested for FY2011, the Secretary would be authorized among other things to allocate funds to promote tenant organizing rights. Going forward, PETRA specifies that a portion of funds made available for the renewal of rental assistance contracts may be allocated to facilitate tenant organizing, subject to terms and conditions established by HUD.^{vii}</p>	<p>Statute allows Operating Funding to be used to support participation in the management and policymaking of public housing by public housing residents.^{viii}</p>	<p>No such requirement exists.</p>	<p>Under the Multifamily Housing Assisted Reform Act of 1997 (MAHRA), the Secretary shall make available not more than \$10 million annually to be made available to tenant groups, nonprofit organizations, and public entities for technical assistance for preservation of low income housing.</p>	<p>It is a priority for HUD to support and encourage independent, effective tenant organizations.</p> <p>HUD will consult further with public and assisted tenants and others to inform the policy on funding of tenant organizations.</p>

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Resident Involvement in Planning	<p>PHAs continue to be required to include at least one assisted tenant on their governing board (board of directors or commissioners).^{ix}</p> <p>PHA Plan requirements, including requirements concerning Resident Advisory Boards, remain. PHAs with 550 or more vouchers and remaining public housing units would continue to be subject to annual planning requirements, and residents of all HUD-assisted properties owned by the PHA would be eligible to participate in the planning process.</p> <p>All PHAs, including those that convert all their public housing, would continue to be subject to the requirement to have a 5-year plan. All owners will be required to notify residents of their intent to convert.^x Public housing agencies will be required to treat conversion as a “significant amendment” to their annual plan, which brings with it a requirement to consult with the Resident Advisory Board.^{xi}</p> <p>Tenants potentially subject to relocation due to rehabilitation or replacement of a property or transfer of a rental assistance contract to another property must be consulted in advance and be provided with relocation assistance.^{xii}</p>	<p>PHAs must submit 5-year and annual plans outlining discretionary policies for its programs.^{xiii}</p> <p>The annual and 5 year plans must be reviewed and approved by HUD. The PHA must allow residents and the public generally to review and comment on the plans, as well as hold a public hearing regarding the contents.</p> <p>Additionally, the PHA must establish a Resident Advisory Board (RAB) to assist and make recommendations regarding the development of the PHA plan, and any significant amendment or modification to the PHA plan must be submitted to the RAB, noticed for public hearing and comment, and approved by the PHA board.^{xiv}</p>	<p>The RAB must have membership that reflects and represents the residents assisted by the PHA.^{xv}</p> <p>Regulations require that if a PHA administers only a voucher program, or has a voucher program in addition to a public housing program and the number of families assisted under the Voucher program is 20% or more of all families assisted by the PHA, the RAB must have reasonable representation from voucher participants. To achieve this, the PHA may appoint voucher participants to an existing RAB or create a new RAB for voucher participants.^{xvi}</p>	<p>Resident organizations must be allowed to formulate responses to:</p> <ul style="list-style-type: none"> • Rent increases • Partial payment of claims • Conversion to tenant-paid utilities • Reduction in tenant utility allowances • Converting residential units to non-residential use, cooperative housing or condominiums • Major capital additions • Prepayment of loans^{xvii} 	<p>PETRA would allow for tenants’ voices to be heard and represented in planning processes related to their housing.</p>

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Income Targeting	<p>PETRA would extend the targeting requirements that now apply to public housing (40 percent of new admissions each year must be extremely low-income households) to public housing properties that convert to project-based contracts under the new Section 8(n). In other words, the requirement that once applied at the agency level will apply at the property level.</p> <p>This requirement also will be embedded in the use agreement that will be put into place upon conversion.</p> <p>Income-targeting for properties that convert to project-based voucher contracts is the same as under the current PBV program. Admissions to these properties are part of the overall requirement that at least 75 percent of the new admissions annually to a PHA's housing voucher program must be extremely low-income households.</p>	<p>All households must have incomes below 80% of area median income (AMI) and at least 40% of each agency's new admissions annually must have incomes that do not exceed 30% of AMI.</p>	<p>All households must have incomes below 80% of AMI; PHAs may limit eligibility to families with incomes below 50% of AMI. At least 75% of families admitted each year to an agency's voucher program must have incomes that do not exceed 30% of AMI.</p>	<p>Families with incomes below 80% of AMI are eligible for assisted units in these developments; no more than 15 - 25% of units may be rented to families with incomes between 50%-80% of AMI, depending on the effective date of the HAP contract. Each year, at least 40% of units must be rented to households with incomes below 30% of AMI.</p>	<p>Of all the things about our public housing system that need to change, one thing that should not change is who it helps. That's why PETRA would extend the targeting requirements that now apply to public housing (40 percent of new admissions each year must be extremely low-income households) to public housing properties that convert to project-based contracts under the new Section 8(n).</p>
Tenant rent payment	<p>"Brooke" requirements will remain in place, with residents paying 30 percent of adjusted income for rent, not to exceed the market rent for the unit.^{xviii}</p> <p>Higher income public housing tenants who are paying less than 30</p>	<p>Most families who live in public housing are required to pay 30 percent of their income for rent and utilities, after certain deductions from their income. Residents are permitted to choose each</p>	<p>A family with a voucher is generally required to contribute 30 percent of its income for rent and utilities.</p>	<p>A family in a project based Section 8 unit is generally required to contribute 30 percent of its income for rent and utilities.</p>	<p>In order to ensure that higher tenant contributions are not required to meet increased costs, HUD is proposing additional funding for public housing (approximately</p>

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	<p>percent of adjusted income for rent, due to ceiling or flat rent policies, will be required to pay 30 percent of income for rent and utilities, like all other assisted tenants. If 30 percent of adjusted income exceeds the rent and utility allowance for the unit, the family could remain in place as an unassisted tenant. The subsidy would remain available for the unit in the future if the family's income drops or the family is replaced by a new tenant that qualifies for assistance.^{xix}</p>	<p>year whether to pay a flat rent set by the housing agency based on local market rents rather than a rent based on their income.</p>			<p>\$1.26 billion annually above the 2011 requested funding levels for the public housing program, taking into account both the operating and capital fund programs).</p>
<p>Procedural Rights</p>	<p>Under PETRA, applicants and tenants must be notified of ineligibility or other adverse actions, including eviction or termination of assistance, and have a right to request a review of the decision, which must be conducted by an independent person. The applicant or tenant has the right to inspect relevant documents at a reasonable time in advance, to bring a representative to the review, and to receive a written decision.^{xx}</p>	<p>PHAs must notify any applicant determined to be ineligible for admission to the project of the basis for ineligibility. If requested by the applicant, the PHA must provide within a 'reasonable time' an opportunity for an informal hearing.^{xxi}</p> <p>Residents must be afforded an opportunity for a hearing if s/he disputes within a reasonable time frame any PHA action or failure to act involving the tenant's lease or PHA regulations which adversely affect the tenant's rights, duties, welfare or status.^{xxii}</p>	<p>No statutory requirements for notifying denied applicants exists.</p> <p>Regulations require that PHAs provide notice to an applicant who is denied assistance stating the reasons for the decision and offering the applicant an informal review of the decision.^{xxiii}</p> <p>Any termination of tenancy must be preceded by the owner's provision of written notice to the tenant specifying the grounds for action.^{xxiv}</p>	<p>No such requirement exists.</p>	<p>PETRA makes procedural rights for tenants of public housing converted to Section 8 assistance as strong as rights under the current public housing provisions of the US Housing Act – and for applicants, these protections are even stronger. Core elements of due process review that apply to all adverse actions are established: essentially the same as the administrative grievance procedures enjoyed by current public housing residents.</p>

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Tenant opportunity to comment on lease provisions	Tenant organizations have the right to address issues related to the terms and conditions of tenancies, primarily incorporated in the lease.	<p>A PHA's eligibility admissions, selection and occupancy policies must be laid out in its plan, subject to comments and input from tenants.^{xxv}</p> <p>Additionally, regulations require PHAs to consider all tenant comments submitted to them consistent with "sound management practices."^{xxvi}</p>	No such requirement exists.	No such requirement exists.	PETRA ensures that tenant organizations have a statutory right to comment on lease provisions.

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ⁱ Section 8(m)(1)(A)(ii)(I), p.5.

ⁱⁱ Section 8(m)(1)(A)(ii)(II), p.5.

ⁱⁱⁱ Section 8(m)(1)(A)(ii)(IV)(aa), pp.5-6.

^{iv} Section 8(m)(1)(A)(ii)(IV), p.5.

^v Section 8(m)(1)(A)(ii)(IV), p.5.

^{vi} 12 USC 1715z-1b(b)(4); See also 24 CFR part 245, and Housing Notice issued June 18, 2010 at <http://www.hud.gov/offices/hsg/mfh/tenantpartinmfhprojects.pdf>

^{vii} Section 8(m)(1)(A)(ii)(V), p.6.

^{viii} 42 USC 1437g(e)(1)(E). Regulations at 24 CFR 964.150 require, subject to appropriations, a PHA to set aside \$25 per unit annually for purposes of resident participation. Of this amount, PHAs are permitted to retain \$10 per unit annually for costs incurred.

^{ix} Section 8(m)(M)(iii), p.30.

^x Section 8(m)(2)(B)(iv), p. 20.

^{xi} Section 8(m)(2)(B)(iv), p. 20.

^{xii} Section 8(m)(2)(B)(iv), p. 20, Section 8(m)(2)(G), p. 26.

^{xiii} In June 2004, HUD issued regulations to streamline the annual plan requirements for PHAs with fewer than 250 public housing units and any number of voucher units. These PHAs are only required to submit to HUD certifications on capital improvement needs and on civil rights compliance. This regulatory streamlining action was broadened in 2008, when Congress enacted several changes that diminish the PHA Annual Plan requirements for PHAs that administer fewer than 550 combined units of public housing and vouchers.

^{xiv} 42 USC 1437c-1(e).

^{xv} 42 USC 1437c-1(e).

^{xvi} 24 CFR 903.13(b)(3)

^{xvii} 12 USC 1715z-1b(b)

^{xviii} Section 8(n)(4), p. 39.

^{xix} Section 8(m)(2)(I), p. 27.

^{xx} Section 8(m)(1)(A)(iii), pgs. 6-9.

^{xxi} 42 USC 1437d(c)(3).

^{xxii} 42 USC 1437d(k).

^{xxiii} 24. CFR 982.554.

^{xxiv} 42 USC 1437f(d).

^{xxv} 42 USC 1437c-1.

^{xxvi} 24 CFR 866.3, referencing 42 USC 1437d(c)(4).