

the hearing in accordance with the HA hearing procedures.

(5) *Evidence.* The HA and the family must be given the opportunity to present evidence, and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

(6) *Issuance of decision.* The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the family.

(f) *Effect of decision.* The HA is not bound by a hearing decision:

(1) Concerning a matter for which the HA is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under the HA hearing procedures.

(2) Contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.

(3) If the HA determines that it is not bound by a hearing decision, the HA must promptly notify the family of the determination, and of the reasons for the determination.

(g) *Restrictions on assistance to noncitizens.* The informal hearing provisions for the denial of assistance on the basis of ineligible immigration status are contained in 24 CFR part 5.

(Approved by the Office of Management and Budget under control number 2577-0169)

[60 FR 34695, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 61 FR 13627, Mar. 27, 1996]

Subpart M—Special Housing Types

SOURCE: 63 FR 23865, Apr. 30, 1998, unless otherwise noted.

§ 982.601 Overview.

(a) *Special housing types.* This subpart describes program requirements for special housing types. The following are the special housing types:

- (1) Single room occupancy (SRO) housing;
- (2) Congregate housing;
- (3) Group home;
- (4) Shared housing;
- (5) Cooperative (including mutual housing);
- (6) Manufactured home.

(b) *HA choice to offer special housing type.* (1) The HA may permit a family to use any of the following special housing types in accordance with requirements of the program: single room occupancy housing, congregate housing, group home, shared housing or cooperative housing.

(2) In general, the HA is not required to permit use of any of these special housing types in its program.

(3) The HA must permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8.

(4) For occupancy of a manufactured home, see § 982.620(a).

(c) *Family choice of housing and housing type.* The HA may not set aside program funding for special housing types, or for a specific special housing type. The family chooses whether to rent housing that qualifies as a special housing type under this subpart, or as any specific special housing type, or to rent other eligible housing in accordance with requirements of the program. The HA may not restrict the family's freedom to choose among available units in accordance with § 982.353.

(d) *Applicability of requirements.* Except as modified by this subpart, requirements in the other subparts of this part apply to the special housing types. Provisions in this subpart only apply to a specific special housing type. The housing type is noted in the title of each section.

SINGLE ROOM OCCUPANCY (SRO)

§ 982.602 SRO: General.

(a) *Who may reside in an SRO?* A single person may reside in an SRO housing unit.

(b) *When may a person rent an SRO housing unit?* A single person may rent a unit in SRO housing only if:

(1) HUD determines there is significant demand for SRO units in the area;

(2) The HA and the unit of general local government approve providing assistance for SRO housing under the program; and

(3) The unit of general local government and the HA certify to HUD that the property meets applicable local health and safety standards for SRO housing.

§982.603 SRO: Lease and HAP contract.

For SRO housing, there is a separate lease and HAP contract for each assisted person.

§982.604 SRO: Rent and housing assistance payment.

(a) *SRO FMR/exception rent limit.* The FMR/exception rent limit for SRO housing is 75 percent of the zero-bedroom FMR/exception rent limit.

(b) *Regular tenancy: Limit on initial gross rent.* For a regular tenancy in the certificate program, the initial gross rent may not exceed the FMR/exception rent limit for SRO housing.

(c) *Voucher program: Payment standard.* The HA must adopt a payment standard for persons who occupy SRO housing with assistance under the voucher program. The SRO payment standard may not exceed the FMR/exception rent limit for SRO housing. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

(d) *Over-FMR tenancy: Payment standard.* While the assisted person resides in SRO housing with assistance under an over-FMR tenancy in the certificate program, the payment standard for the person is the SRO FMR/exception rent limit.

(e) *Utility allowance.* The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

§982.605 SRO: Housing quality standards.

(a) *HQS standards for SRO.* The HQS in §982.401 apply to SRO housing. However, the standards in this section apply in place of §982.401(b) (sanitary facilities), §982.401(c) (food preparation

and refuse disposal), and §982.401(d) (space and security). Since the SRO units will not house children, the housing quality standards in §982.401(j), concerning lead-based paint, do not apply to SRO housing.

(b) *Performance requirements.* (1) SRO housing is subject to the additional performance requirements in this paragraph (b).

(2) Sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

(i) *Sanitary facilities.* (A) At least one flush toilet that can be used in privacy, lavatory basin, and bathtub or shower, in proper operating condition, must be supplied for each six persons or fewer residing in the SRO housing.

(B) If SRO units are leased only to males, flush urinals may be substituted for not more than one-half the required number of flush toilets. However, there must be at least one flush toilet in the building.

(C) Every lavatory basin and bathtub or shower must be supplied at all times with an adequate quantity of hot and cold running water.

(D) All of these facilities must be in proper operating condition, and must be adequate for personal cleanliness and the disposal of human waste. The facilities must utilize an approvable public or private disposal system.

(E) Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them. These facilities may not be located more than one floor above or below the SRO unit. Sanitary facilities may not be located below grade unless the SRO units are located on that level.

(ii) *Space and security.* (A) No more than one person may reside in an SRO unit.

(B) An SRO unit must contain at least one hundred ten square feet of floor space.

(C) An SRO unit must contain at least four square feet of closet space for each resident (with an unobstructed height of at least five feet). If there is less closet space, space equal to the