

RBD FASTCLASS – JOINT CUSTODY

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Disclaimer

The material contained in this document is not comprehensive of the continually emerging issues surrounding policies in The Multifamily Housing industry. In addition, the handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in August 2013 and in December 2013 and subsequent notices and memos from HUD.

These materials were updated 8/2022.

The reader should understand that these materials are not designed for, nor should be relied upon, as a source of legal guidance or as a final authority with respect to any particular circumstance.

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We have been diligent in our efforts to provide comprehensive and accurate regulatory instruction; Ross Business Development shall not be responsible for errors or inaccuracies.

INTRODUCTION

This FASTClass was created to address questions about how to complete the 50059 when a child who lives in the unit is part of a joint custody arrangement and the other family also receives HUD assistance. This FASTClass also explains the impact on the EIV Reports and how owner/agents should document the Tenant File and the Master File.

We also provide a FASTFacts document which is available on our Resources Page.

<https://www.rbdnow.com/resources/noticeforms>.

Guidance from HUD is provided in [HUD's TRACS 2.0.2.D MAT Guide](#) Chapter 5 and in [HH 4350.3](#) Paragraphs 3-6 (Income Limits), 3-23 (Occupancy Standards). Guidance is also provided in [HH 4350.3](#) Paragraph 5-6 (Income), 5-7 (Assets) and 5-10 (Deductions).

Please note that HUD provides guidance for situations where two families share custody of one child AND BOTH FAMILIES RECEIVE HUD HOUSING ASSISTANCE. Some of these rules may not apply when only one family receives HUD housing assistance.

CHILDREN IN JOINT CUSTODY ARRANGEMENTS

There are two situations when a child may appear in two different units. One occurs when two families receiving HUD subsidy have joint custody of a child. The families applied and live separately either on the same property or on two different properties. The other is when one family “splits” becoming two families receiving subsidy and both families will share custody.

The child may appear on a 50059 for both units.

Note: In some cases, the other family is assisted through HUD's Public and Indian Housing program and the family receives a voucher. In these cases, the PHA uses HUD Form 50058 instead of 50059.

When children are in joint custody arrangements, property managers should understand that this will affect the following:

- ✧ The EIV Existing Tenant Search (reviewed before the child moves to your property)
- ✧ The EIV Multiple Subsidy Report (Master File)
- ✧ The 50059
 - Special Status Codes
 - Income
 - Assets
 - Deductions

Owner/agents should note that there is no requirement for a family to provide formal proof of custody unless it is required by local law. This does not mean you are prohibited from requesting such documentation, just that it is not required.

(See [HH 4350.3](#) Paragraph 5-10). HUD has clarified that if there is a local requirement to provide proof of custody (state or local law), then owner/agents must comply with any such requirement.

It is important to ask pertinent questions related to occupancy, income and expenses to ensure that any Assistance Payment is calculated correctly. We provide a Self-Certification for this purpose.

HUD'S EIV EXISTING TENANT SEARCH

Owner/agents are required to review the EIV Existing Tenant Search for all family members before that member moves in to a unit. There is an exception when the member does not have a Social Security Number.

If an owner/agent reviews the EIV Existing Tenant Search and discovers that the minor is living in another unit with another family, the owner/agent should document the file and explain that more than one family shares custody of the child and both families live in assisted housing. This is acceptable and there is no corrective action.

INCOME LIMITS & OCCUPANCY STANDARDS

It is especially important to have the family certify the percentage of time the child will spend in each unit. You may be able to verify this if there is a formal custody agreement.

In cases where the child is listed on a 50058 (PIH) and/or 50059(MF) for more than one household, if the child lives in the unit at least 50% of the time, the child can be included in the count for:

- ✧ Income Limits
- ✧ Unit Size
- ✧ Dependent Deduction

INCOME LIMITS

When determining family size for income limits, the owner must include children in joint custody arrangements who are present in the household 50% or more of the time. See [HH 4350.3](#) Paragraph 3-6.

OCCUPANCY STANDARDS

In order to determine the size of unit that would be appropriate for a particular family, the owner needs to determine the number of family members and will include children in joint custody arrangements who are present in the household 50% or more of the time. See [HH 4350.3](#) Paragraph 3-23.

DEDUCTIONS

Deductions are used to reduce the family's Tenant Rent. See [HH 4350.3](#) Paragraph 5-10 for information about how to apply deductions when more than one family shares custody of a child **and both families live in assisted housing**.

DEPENDENT DEDUCTION

When more than one family shares custody of a child **and both families live in assisted housing**, only one family at a time can claim the Dependent Deduction. The family that counts the Dependent Deduction also counts the unearned income of the child. The other family claims neither the Dependent Deduction nor the unearned income of the child. See [HH 4350.3](#) Paragraph 5-6:

The MAT Guide provides additional guidance and specifies that, in this situation, in order for the family to qualify for the Dependent Deduction, the child must live in the unit at least 50% of the time.

CHILD CARE DEDUCTION

Both families may include their own out of pocket child care expenses regardless of whether or not the child resides in the unit 50% of the time.

DISABILITY ASSISTANCE EXPENSE DEDUCTION

Both families may include their own out of pocket disability assistance expenses regardless of whether or not the child resides in the unit 50% of the time.

ENTERING SPECIAL STATUS CODES ON THE 50059

If both families have the child 50% of the time:

- ✧ For the family taking the deduction, the OA must include **JK** in the child's Special Status code field on the 50059.
- ✧ For the family that is not taking the deduction, the OA must include **CK** in the child's Special Status code field on the 50059.

*Note: MAT Guide Chapter 5 Instruction: **JK** = Dependent (D) whose custody is jointly shared by more than one family and lives in the unit 50% or more of the time. Family receives a dependent allowance along with a child care allowance where applicable. Count for unit size and income limit purposes.*

CK = Dependent (D) whose custody is jointly shared by more than one family and lives in the unit 50% or more of the time. Count for unit size and income limit purposes.

If the child is in the unit less than 50% of the time, and when both families receive HUD housing assistance, the OA must include **C** in the child's Special Status code field on the 50059.

If the child does not live in the unit 50% of the time, always use **code C**. In this case, the child care deduction applies, but the dependent deduction does not apply and the child should not be considered when applying unit size standards.

*Note: MAT Guide Chapter 5 Instruction: **C** = Dependent (D) whose custody is jointly shared by more than one family but who does not receive a dependent allowance and who lives in the unit less than 50% of the time. Such a person's child care expenses count toward the child care allowance.*

If the child is not in a joint custody arrangement, owner/agents do not enter JK, CK or C in the Special Status Code field for the child.

INCOME & ASSETS ASSOCIATED WITH THE CHILD

While owner/agents exclude income earned by a minor, unearned income is included when determining the family's Assistance Payment. Examples of unearned income include, but are not limited to:

- ✧ Social Security Survivor's benefits;
- ✧ Supplemental Social Security Income (SSI);
- ✧ Income from Special Needs Trusts;
- ✧ Child Support (may be associated with a parent or a child);
- ✧ Income from an asset.

When determining the Assistance Payment, the family that includes the Dependent Deduction when determining Adjusted Income must also include:

- ✧ Any unearned income;
- ✧ Any assets held in the child's name;
- ✧ Income from those assets that are held in the child's name.

In some situations, the unearned income may be paid to a "Representative Payee" who does not live in the unit with the child. Generally, family or friends serve as payees. Representative Payees must comply with guidance provided by the Social Security Administration in [The Guide for Individual Representative Payees](#).

To summarize, the Social Security Administration recommends that Representative Payees hold benefits in a checking or savings account to protect against loss or theft. When the Representative Payee establishes a separate account for the child the account is included as an asset.

Interest earned belongs to the beneficiary (child) and is included as income from the asset.

RBD FASTClass – Joint Custody

Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures **U. S. Department of Housing And Urban Development** For Personal Records ONLY - not for Submission to the Federal Government

Office of Housing
Federal Housing Commissioner

Record for Landlords
(Exp. 06/30/2017)

Section B. Summary Information		
1. Project Name Magnolia Gardens	12. Effective Date 9/1/2023	21. Unit Number 243A
2. Subsidy Type 3. Secondary Subsidy Type 4. Property ID 5. Project Number 6. Contract Number 7. Project iMAX ID 8. Plan of Action Code 9. HUD-Owned Project? 10. Previous Housing Code 11. Displacement Status Code	13. Anticipated Voucher Date 9/2023	22. No. of Bedrooms 2
	14. Next Recertification Date 9/1/2024	23. Building ID
	15. Project Move-In Date 9/11/2019	24. Unit Transfer Code
	16. Certification Type AR	25. Previous Unit No.
	17. Action Processed	26. Security Deposit
	18. Correction Type	27. 236 Basic/BMIR Rent
	19. EIV Indicator	28. Market Rent
	20. Prev. Subsidy Type	29. Contract Rent 1230
		30. Utility Allowance 180
		31. Gross Rent 1410
		32. TTP at RAD Conversion

Section C. Household Information																
33. No.	34. Last Name	35. First Name	36. MI	37. Rel.	38. Sex	39. Race	40. Eth	41. Birth Date	42. Special Status	43. Stdnt Stat.	44. ID Code (SSN)	45. SSN Excp	46. Ctnz Code	47. Alien Reg. Number	48. Age	49. Work Codes
01	Karev	Karl		H	M	1	1	11/10/1989	M		111111111		EC		33	
02	Karev	Kiera		D	F	1	1	9/30/2014	HJK		222222222		EC		9	W
03																
04																
06																
07																
08																
50. Family has Mobility Disability?			53. Number of Family Members			2			57. Expected Family Addition - Adoption			0				
51. Family has Hearing Disability?			54. Number of Non-Family Members			0			58. Expected Family Addition - Pregnancy			0				
52. Family has Visual Disability?			55. Number of Dependents			1			59. Expected Family Addition - Foster Children			0				
56. Number of Eligible Members			2													
60. Previous Head Last Name									63. Active Full Cert. Effective Date							
61. Previous Head First Name									64. Previous Head ID							

Section D. Income Information					Section E. Asset Information				
66. Mbr. No.	67. Income Type Code	68. Amount	69. SSN Benefits Claim No.	75. Mbr. No.	76. Description	77. Status	78. Cash Value	79. Actual Yearly Income	80. Date Divested
1	Employment - Target	24000		1	Checking TRUIST		6785	68	
2	SSI	20664		2	Money Market TRUIST		9285	93	
70. Total Employment Income			24000		81. Total Cash Value of Assets			16070	
71. Total Pension Income			20664		82. Actual Income from Assets			161	
72. Total Public Assistance Income			0		83. HUD Passbook Rate			.06	
73. Total Other Income			0		84. Imputed Income from Assets			10	
74. Total Non-Asset Income			44664		85. Asset Income			161	

Section F. Allowances & Rent Calculations					
86. Total Annual Income	44825	97. Deduction for Dependents	480	108. Total Tenant Payment	980
87. Low Income Limit	48600	98. Child Care Expense (work)	4000	109. TTP Before Override	
88. Very Low Income Limit	33150	99. Child Care Expense (school)	0	110. Tenant Rent	800
89. Extremely Low Income Limit	61700	100. 3% of Income	1345	111. Utility Reimbursement	0
90. Current Income Status	2	101. Disability Expense	2500	112. Assistance Payment	610
91. Eligibility Universe Code	2	102. Disability Deduction	1155	113. Welfare Rent	
92. Sec. 8 Assist. 1984 Indicator		103. Medical Expense	0	114. Rent Override	
93. Income Exception Code		104. Medical Deduction	0	115. Hardship Exemption	
94. Police / Security Tenant?		105. Elderly Family Deduction	0	116. Waiver Type Code	
95. Survivor of Qualifier?		106. Total Deductions	5635	117. Eligibility Check Not Required	
96. Household Citizenship Eligibility	E	107. Adjusted Annual Income	39190	118. Extenuating Circumstances Code	

THE EIV MULTIPLE SUBSIDY REPORT

The EIV Multiple Subsidy Report provides information about household members who are listed on a 50059 and/or 50058 in multiple units. When more than one family shares custody of a child **and both families live in assisted housing**, that child should appear on the EIV Multiple Subsidy Report which is maintained in the EIV Master File.

Owner/agents should make a note to the Master File explaining that more than one family shares custody of a child **and both families live in assisted housing**. This is an accepted exception to the rule and no additional action is required.

For additional training related to

Move-in

Interim Recertification

And Verification

Visit our RBD OnDemand Training Page <https://www.rbdnow.com/ondemand-training>.

To purchase forms related to

Move-in

Interim Recertification

And Verification

Visit our RBD FASTForms Page <https://www.rbdnow.com/fast-forms>.

SUMMARY

This RBD FASTClass explains how to handle situations where two families share custody of one child and both families receive HUD housing assistance.

The class includes an explanation of how to handle unearned income, income from assets and 50059 data entry.

We also discussed possible impact on the EIV Existing Tenant Search and the EIV Multiple Subsidy Report.