

JANUARY 2021



**RBD FASTFACTS -
CREATING
CERTIFICATIONS WHEN
MORE THAN ONE FAMILY
SHARES CUSTODY OF A
CHILD**

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FASTFacts
Creating Certifications When More Than One Family Shares Custody of a Child

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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 1/2021.

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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Owners and management should seek competent legal advice in developing and carrying out housing policies and procedures.

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.

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Creating Certifications When More Than One Family Shares Custody of a Child

Note from RBD – 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.

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, 3-20, 5-6 and 5-10.

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.

(See HH 4350.3 R1, C4, Paragraph 5-10). HUD has clarified that if there is a local requirement to provide custody (state or local law), then owner/agents must comply with any such requirement.

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.

INCOME LIMITS, OCCUPANCY STANDARDS AND DEDUCTIONS

While the family does not have to provide proof of a formal custody arrangement, the OA should require the family to provide verification of the household custody arrangement. This can be self-certification but must be in compliance with the verification instruction provided in HH 4350.3 Paragraph 5-13.

It is important to have the family certify the percentage of time the child will spend in each unit.

If the child lives in the unit at least 50% of the time and is listed on a 50058 (PIH) or 50059(MF) for more than one household, the child is counted for:

- *Income Limits*
- *Unit Size*
- *Dependent Deduction*

INCOME LIMITS

If the child is in the unit less than 50% of the time, the child is not considered part of the household for income limit purposes if this family is the one moving to the new unit.

See HH 4350.3 Paragraph 3-6.

OCCUPANCY STANDARDS

If the child is in the unit less than 50% of the time, the OA may not consider the child when determining the occupancy standard (child does not qualify for a bedroom).

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DEPENDENT & CHILD CARE DEDUCTION

If a family wants to use the \$480 dependent deduction, the child must reside in the unit at least 50% of the time. That family must also include any unearned income associated with the child. Whoever takes the deduction takes the income.

*See HH 4350.3 Paragraph 5-6: 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 R1, C4, 3-23-E-6. Counting family members. 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.

- a. *The owner must count all full-time members of the family.*
- b. *The owner must also count all anticipated children. Anticipated children include the following:*
 - (1) *Children expected to be born to a pregnant woman;*
 - (2) *Children in the process of being adopted by an adult family member;*
 - (3) *Children whose custody is being obtained by an adult family member;*
 - (4) *Foster children who will reside in the unit;*
 - (5) *Children who are temporarily in a foster home who will return to the family; and*
 - (6) *Children in joint custody arrangements who are present in the household 50% or more of the time.*

If the child is in the unit less than 50% of the time, and when both families receive HUD housing assistance, that family may not take advantage of the \$480 dependent allowance.

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.

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, **T**The OA must include **C** in the child's Special Status code field on the 50059.

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.

When a child (anyone who is under 18 years of age as of the effective date of the certification) is in a joint custody arrangement or when a child may appear on a 50058 or 50059 for more than one household, certain rules

apply. The child must live in the unit at least 50% of the time to be qualified as a household member for Income Limits, Unit Size and the Dependent Deduction.

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.

If the child is not in a joint custody arrangement and when the child will not appear on the 50059 or 50058 for two households, JK, CK or C are not entered in the Special Status Code field for the child.