

§ 964.420

24 CFR Ch. IX (4-1-06 Edition)

(2) Such a board member may be removed from the PHA board for that cause, where such action is permitted under State or local law.

(3) Alternatively, the board member may be allowed to complete his/her current term as a member of the governing board. However, the board member may not be re-appointed (or re-elected) to the governing board for purposes of serving as the statutorily required resident board member.

(c) *Minimum qualifications for board membership.* Any generally applicable qualifications for board membership also apply to residents, unless the application of the requirements would result in the governing board not containing at least one eligible resident as a member. Further, PHAs and localities may not establish eligibility requirements for board membership that are solely applicable to residents.

§ 964.420 Resident board member may be elected.

(a) *General.* Residents directly assisted by a public housing agency may elect a resident board member if provided for in the public housing agency plan, adopted in accordance with 24 CFR part 903.

(b) *Notice to residents.* The public housing agency must provide residents with at least 30 days advance notice for nominations and elections. The notice should include a description of the election procedures, eligibility requirements, and dates of nominations and elections. Any election procedures devised by the public housing agency must facilitate fair elections.

§ 964.425 Small public housing agencies.

(a) *General.* The requirements of this subpart do not apply to any public housing agency that:

(1) Has less than 300 public housing units (or has no public housing units);

(2) Has provided reasonable notice to the resident advisory board of the opportunity for residents to serve on the governing board;

(3) Has not been notified of the intention of any resident to participate on the governing board within a reasonable time (which shall not be less than 30 days) of the resident advisory board

receiving the notice described in paragraph (a)(3) of this section; and

(4) Repeats the requirements of paragraphs (a)(2) and (a)(3) of this section at least once every year.

(b) *Public housing agencies that only administer Section 8 assistance.* A public housing agency that has no public housing units, but administers Section 8 tenant-based assistance, is eligible for the exception described in paragraph (a) of this section, regardless of the number of Section 8 vouchers it administers.

(c) *Failure to meet requirements for exception.* A public housing agency that is otherwise eligible for the exception described in paragraphs (a) and (b) of this section, but does not meet the three conditions described in paragraphs (a)(2) through (a)(4) of this section, must comply with the requirements of this subpart.

§ 964.430 Nondiscrimination.

(a) *Membership status.*—(1) *General.* A resident board member is a full member of the governing board.

(2) *Resident participation must include matters regarding Federal public housing and Section 8 tenant-based assistance.* A resident board member must be allowed to take part in decisions related to the administration, operation, and management of Federal public housing programs and Section 8 tenant-based rental assistance programs. This rule does not extend to matters that:

(i) Exclusively relate to other types of housing assistance (such as State financed housing assistance); or

(ii) Do not involve housing assistance (as may occur where the city or county governing body also serves as the PHA board).

(3) *Public housing agency may expand scope of resident participation.* A public housing agency may choose to expand the scope of resident member involvement to matters not required under paragraph (a)(2) of this section.

(b) *Residence status.* A governing board may not prohibit any person from serving on the governing board because that person is a resident of a public housing project or is assisted under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(c) *Conflict of interest.* A governing board may not exclude any resident board member from participating in any matter before the governing board on the grounds that the resident board member's lease with the public housing agency, or the resident board member's status as a public housing resident or recipient of Section 8 tenant-based assistance, either results or may result in a conflict of interest, unless the matter is clearly applicable to the resident board member only in a personal capacity and applies uniquely to that member and not generally to residents or to a subcategory of residents.

PART 965—PHA-OWNED OR LEASED PROJECTS—GENERAL PROVISIONS

Subpart A—Preemption of State Prevailing Wage Requirements

Sec.

965.101 Preemption of State prevailing wage requirements.

Subpart B—Required Insurance Coverage

965.201 Purpose and applicability.
 965.205 Qualified PHA-owned insurance entity.
 965.215 Lead-based paint liability insurance coverage.

Subpart C—Energy Audits and Energy Conservation Measures

965.301 Purpose and applicability.
 965.302 Requirements for energy audits.
 965.303 [Reserved].
 965.304 Order of funding.
 965.305 Funding.
 965.306 Energy conservation equipment and practices.
 965.307 Compliance schedule.
 965.308 Energy performance contracts.

Subpart D—Individual Metering of Utilities for Existing PHA-Owned Projects

965.401 Individually metered utilities.
 965.402 Benefit/cost analysis.
 965.403 Funding.
 965.404 Order of conversion.
 965.405 Actions affecting residents.
 965.406 Benefit/cost analysis for similar projects.
 965.407 Reevaluations of mastermeter systems.

Subpart E—Resident Allowances for Utilities

965.501 Applicability.
 965.502 Establishment of utility allowances by PHAs.
 965.503 Categories for establishment of allowances.
 965.504 Period for which allowances are established.
 965.505 Standards for allowances for utilities.
 965.506 Surcharges for excess consumption of PHA-furnished utilities.
 965.507 Review and revision of allowances.
 965.508 Individual relief.

Subpart F—Physical Condition Standards and Physical Inspection Requirements

965.601 Physical condition standards; physical inspection requirements.

Subpart G [Reserved]

Subpart H—Lead-Based Paint Poisoning Prevention

965.701 Lead-based paint poisoning prevention.

Subpart I—Fire Safety

965.800 Applicability.
 965.805 Smoke detectors.

AUTHORITY: 42 U.S.C. 1437, 1437a, 1437d, 1437g, and 3535(d). Subpart H is also issued under 42 U.S.C. 4821-4846.

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Subpart A—Preemption of State Prevailing Wage Requirements

§ 965.101 Preemption of State prevailing wage requirements.

(a) A prevailing wage rate including basic hourly rate and any fringe benefits) determined under State law shall be inapplicable to a contract or PHA-performed work item for the development, maintenance, and modernization of a project whenever:

- (1) The contract or work item: (i) Is otherwise subject to State law requiring the payment of wage rates determined by a State or local government or agency to be prevailing and (ii) is assisted with funds for low-income public housing under the U.S. Housing Act of 1937, as amended; and
- (2) The wage rate determined under State law to be prevailing with respect