



## Tax Credit 101: Student Rule Restrictions

by Amanda Mistretta, Raymond James Affordable Housing Investments

Student rule restrictions play a crucial role in determining the eligibility of students for affordable housing. Section 42 does not allow tax credit units to be used as dormitory or transient housing.

The restriction on full-time students living in low-income housing aims to prioritize individuals and families who are solely dependent on affordable housing options rather than funds and resources going to students who often have other means of support — such as financial aid, scholarships, grants or family assistance — and alternative housing options such as student housing.

It is first important to determine the student status of each household member occupying a unit.

- If at least one household member is not a student, nothing further is needed; the unit is student eligible.
- If all household members are students, and at least one member certifies they are a part-time student, part-time status must be verified to be student eligible.
- If all household members are full-time students, a student exception must be met to be eligible. *Note: An unborn child would be considered a non-student household member and would qualify an otherwise full-time student household.*

An individual is considered a full-time student if they attended an educational organization — including elementary, junior or senior high school — or an institute of higher learning — such as colleges, universities, and technical, trade and mechanical schools — for any time within five months of a calendar year. If the student attended at least one day in a month, that month is counted, and the five calendar months do not have to be consecutive.

Determination of student status should be based on the criteria used by the educational institution. Kindergarten through grade 12 is always considered full-time; however, colleges, universities and other post-secondary schools may differ in the number of credit hours that constitute full-time status.

In general, full-time student households are ineligible for the Low-Income Housing Tax Credit program unless they qualify for any one of the five exceptions, which must be third-party verified.



## Student Exceptions and Verification Required

- All adult members are single parents with minor children, the adults are not dependents of another individual, and the children are only claimed as a dependent by a parent.
  - Copy of tax return or a signed affidavit reflecting that the adults are not dependents of anyone outside the household and all children are claimed only by a parent.
- All adults are married and entitled to file a joint tax return. (If legally married under state law, same sex couples qualify under this rule.)
  - Copy of tax return, if filed, or marriage certificate.
- A member of the household is receiving assistance under Title IV of the Social Security Act (AFDC/Temporary Assistance for Needy Families (TANF) program – not SSA/Supplemental Security Income (SSI)).
  - TANF award letter or third-party verification
- A member of the household previously received foster care assistance from a state agency.
  - Foster paperwork from welfare agency
- A member of the household is enrolled in a job training program receiving assistance through the Job Training Partnership Act (JTPA), Workforce Investment Act, or other similar federal, state or county government program.
  - Documentation that supports the program has a mission similar to the JTPA/Workforce Investment Act and receives federal, state or local government funding.

In some instances, it is required to verify part-time student status to ensure student eligibility in tax credit units.

- When the sole household member claims to be a part-time student. Verification of part-time student status is needed at time of move-in and should be verified every semester to ensure continued student eligibility.
- When a household comprises all students and at least one is claiming to be part time. Verification of part-time student status is needed at time of move-in and should be verified every semester to ensure continued student eligibility.

The student status of all household members must be verified at move-in and annually thereafter. A unit is considered nonqualifying if the owner fails to verify a household's student status or if a low-income unit is occupied entirely by full-time students who do not meet a



student exception. Documentation that verifies meeting a student exception is also required annually for all full-time student households; there are no legacies with the student rule.

*Amanda Mistretta joined Raymond James Affordable Housing Investments (RJAHI) in 2018. She has worked in the multifamily affordable housing industry for 16 years, specializing in Low Income Housing Tax Credit (LIHTC) compliance. During her career, she has worked in property management as a leasing agent, compliance specialist and compliance coordinator, where she oversaw compliance reporting for a portfolio of over 7,000 units.*

*Applying her Education degree from St. Petersburg College of Education, Mrs. Mistretta was a National Compliance Trainer, providing public and private trainings to state agency, management and development personnel on LIHTC compliance. As a Senior Compliance Specialist with RJAHI, Mrs. Mistretta manages a LIHTC compliance portfolio of properties, conducting reviews of initial tenant files to ensure compliance with regulatory rules and regulations. Her responsibilities also include overseeing the Annual Compliance Audit process for the RJAHI portfolio of stabilized properties. Mrs. Mistretta holds the designation as a Housing Credit Certified Professional (HCCP®) from the National Association of Home Builders and the C3P from Spectrum Enterprises.*

***NAHB is providing this information for general information only. This information does not constitute the provision of legal advice, tax advice, accounting services, investment advice, or professional consulting of any kind nor should it be construed as such. The information provided herein should not be used as a substitute for consultation with professional tax, accounting, legal, or other competent advisers. Before making any decision or taking any action on this information, you should consult a qualified professional adviser to whom you have provided all of the facts applicable to your particular situation or question. None of this tax information is intended to be used nor can it be used by any taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer. The information is provided "as is," with no assurance or guarantee of completeness, accuracy, or timeliness of the information, and without warranty of any kind, express or implied, including but not limited to warranties of performance, merchantability, and fitness for a particular purpose.***