

# NEW YORK CITY CIVIL COURT

Section Eight Subsidy

Sateesh Nori

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Irvine, CA  
(949) 477 4972

Ubiquis Reporting  
New York, NY  
(212) 227 7440

Redwood City, CA  
(650) 365 9199

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MR. SATEESH NORI: Good afternoon. My name is Sateesh Nori. I'm a staff attorney at the Legal Aid Society. I'm here to discuss Section Eight for tenants. Can everyone hear me? Okay, I'll talk louder. How about now?

Okay, I'm here to discuss Section Eight and this is a training for tenants and for people who are not familiar with Section Eight. It will be a basic training. I'll try to cover as many issues as I can in the time that we have. Can you hear me in Staten Island?

Now, I don't work for Section Eight. I work for the Legal Aid Society, which is an organization that represents tenants. I've been working there for about six years, so this training is based on my own research. What I'm saying is not coming from Section Eight.

Here are the questions that we

will hope to answer today in today's training. What is Section Eight? Am I eligible for Section Eight? How do I apply for Section Eight? What if I'm found ineligible for Section Eight after I apply? Also, how is the rent set? What are my obligations if I get accepted to Section Eight? And what are the landlord's obligations as a Section Eight landlord? So let's jump right into it.

What is Section Eight? Section Eight is a federal program that began in 1975 through the Department of Housing and Urban Development, which agreed to provide money to local public housing authorities to assist tenants with rent. Section Eight works when the Section Eight household pays a portion of their rent and the Public Housing Authority, through money from HUD, pays the rest of the rent.

The idea behind Section Eight was to allow low income households to be able

to live in middle income neighborhoods by allowing them to pay what they can afford in rent and having the federal government subsidize the rest of the rent. Section Eight is sometimes called the Housing Choice Voucher Program. That's the technical title, but most people refer to it just as Section Eight.

There are five or more different kinds of Section Eight. Today we will be talking about three kinds, which are relevant to people who live in New York City.

The first kind is called tenant based rental assistance. This is also called the voucher. The voucher may be used in a recipient's housing of choice. It's portable. Someone who has a voucher can take it with them from apartment to apartment. This is the most common type of Section Eight that you will find in New York City.

The next type that we will discuss is called Project Based Rental Assistance. This means that the Section Eight is connected to an apartment in a building, so a tenant with this type of Section Eight cannot take the Section Eight with them if they leave that apartment in that building.

Finally, we will talk briefly about enhanced vouchers. These are also called sticky vouchers. HUD provides these special vouchers to protect residents of rent-regulated apartments, the owners of which prepay federal loans to opt out or not to renew the Project Based Section Eight. So this occurs when a landlord says I don't want to take this subsidy, or I've prepaid my taxes that force me to take this subsidy. The federal government said we will give the tenants in these situations Section Eight and hand sticky vouchers so that they

don't get evicted.

How does Section Eight work?

Let's talk about how a regular landlord/tenant relationship works. A regular landlord/tenant relationship is a straight line - landlord and tenant. Each has obligations to the other. The landlord provides an apartment, hopefully one that's safe and in good condition. In return, the tenant pays rent and lives in the apartment.

For Section Eight, there is a triangle. At the top of the triangle is the Public Housing Authority. In New York City, the Public Housing Authorities are NYCHA, the New York City Housing Authority, which also operates public housing which is separate from Section Eight; the Department of Housing, Preservation and Development, which is also called HPD. That's the same organization that you call if you want

your apartment to be inspected. When you call 311, HPD will come and inspect your apartment. And finally, DHCR, which is the Division of Housing and Community Renewal. They administer the rent regulation system in New York City, but they also give out Section Eights.

Now, the main two providers of Section Eight are NYCHA and HPD. So you have HPD or NYCHA at the top. On one corner you have the tenant and on the other corner you have the landlord. Now, between the Public Housing Authority and the tenant is the voucher, the agreement, the entitlement, the Section Eight voucher. Between the Public Housing Authority and the landlord you have the subsidy and the HAP contract, the Housing Assistance Payment contract. And between the landlord and the tenant you have the tenant's share of the rent.

So why is it a triangle? If the

Public Housing Authority, or Section Eight, doesn't pay the subsidy part to the landlord, the landlord cannot sue the tenant for that part. In other words, the tenant is only responsible for paying their share of the rent. If you're on public assistance and you get Section Eight, that share of the rent is the shelter allowance, which usually goes directly to the landlord. Okay, so that's how Section Eight works in a nutshell.

The next question we will answer, hopefully, is, am I eligible for Section Eight? How do I qualify for this program? Well, you have to be a family, and a family can be one person or a family can be 10 people or more. But a family does not include roommates or boarders or lodgers or other people of that nature, okay? So a family has to be a typical family unit, what you would think of as a family unit.



Next, you have to qualify under the income guidelines. Now, HPD and NYCHA and DHCR have somewhat different income guidelines. But generally speaking, a Public Housing Authority has to give 75% of the vouchers that it gets from the federal government to people who are below 30% of the area median income. Well, what does that mean? That means that most of the vouchers that these housing agencies get have to go to the poorest people in that city, okay? So that leaves about a quarter of the vouchers for everybody else. So there aren't a lot of vouchers to go around.

The next eligibility criteria is immigration status. You have to be a U.S. citizen or you have to have eligible immigration status. What's eligible immigration status? Eligible immigration status includes refugees, asylees, green card holders, or lawful permanent

residents, okay? Nobody else is eligible for Section Eight. Now, the key difference is if you get a green card you are immediately eligible for Section Eight, unlike welfare. When you get a green card you have to wait five years before you're eligible for welfare benefits. Section Eight is different. As soon as you get a green card you are immediately eligible for Section Eight.

What's the third eligibility requirement? It's called Standing With Federal Housing Programs. Basically, this means that the Public Housing Authority will do a background check on everybody in the household who is over the age of 16, okay? This usually involves a criminal background check. They will look into whether anyone's ever been arrested, or charged with illegal drugs, or engaged in drug-related criminal activity, is a registered sex offender, or has engaged in

violent criminal activity or any other criminal activity which may threaten the health, safety or peaceful enjoyment of others.

Finally, they'll look into whether the applicant's household or any member has been evicted from a federal housing program before, or a project before, or they've violated any rules of a federal housing program in the past.

The next question we will answer is, how do I apply for Section Eight? Here's the bad news. There are no more Section Eight applications available. NYCHA has informed - and NYCHA is the biggest provider of Section Eight in New York City - NYCHA has informed everyone that they don't have any more vouchers. That means that they've closed the waiting list for Section Eight. It will reopen in the future, hopefully, and if the federal government decides to provide more money

for Section Eight, then NYCHA will be able to again reopen the waiting list for Section Eight. But right now there are no more vouchers available.

How do you apply for a voucher?

There is an application. There is a very detailed application. In the application the Public Housing Authority will ask you about your household composition. Who lives in the apartment? The income and assets. They want to know everything about how much money you receive and how much money you have saved and any property that you might own. Why? Because this is important for them to determine how much your rent will be and how much they will pay for your rent.

They will also ask you about your disability status. Now, when you apply you have to keep in mind that they will ask for documentation. They won't take your word for it. They will ask for

documentation from a third party, meaning somebody else; the government, or your employer, or a school, or somebody to document the things that you're putting in your application.

There are openings for certain types of people to apply for Section Eight. These are the three categories. Keep these in mind. Number one, intimidated witnesses referred to by the District Attorney. Number two, people part of the Children's Services Family Reunification Program. And Number three, victims of domestic violence. These three categories of people can apply for Section Eight.

What if you're already on the waiting list? How do you move up or how do they decide the order of the people on the waiting list? People who are homeless come first. People who have nowhere to live right now are at the top of the

waiting list. Next, people who are intimidated witnesses, people who are part of the Administration for Children's Services Family Reunification Project, and victims of domestic violence.

Last on the list of priorities are people who reside in shelters or adult homes or other type of transitional housing. Remember, a Public Housing Authority cannot deny Section Eight to anyone on the basis of disability, household status, source of income, race, color, sex, religion, or national origin. After you apply, once you move to the top of the list there is what's called the briefing. Section Eight, the Public Housing Authority, NYCHA, let's say, will call you in and give you a talk about what Section Eight is about. This is the time for you to ask questions about Section Eight. At the end of this briefing they will give you a voucher. If you do not go

to the briefing, you may lose your Section Eight. Or you may move back to the end of the line. So if you get a letter saying come to a briefing next Tuesday, you have to go to that briefing if you want your Section Eight.

Once you get the voucher, unfortunately, you only have a limited time to look for an apartment. If you get the voucher through the New York City Housing Authority, they give you 180 days to find an apartment. If you get the voucher through HPD you get 60 days, but you can ask for a 60 day extension. That's not a lot of time, and in New York City, unfortunately a lot of landlords are unwilling to take Section Eight. Now remember, certain types of landlords are required to take Section Eight by law, so you should consult with a legal services provider or an advocate to find out if a landlord who's turned you down is required

to take Section Eight.

What if I'm found ineligible for Section Eight? They tell you that you can't apply because you're not eligible. Well, for both HPD and NYCHA you're allowed to request a hearing to challenge that determination. You can go to them and say this is why I should be eligible. The things that you said that make me ineligible are no longer true, or I've taken steps to remedy those things.

The next question is, how is the rent set? This is the most important aspect of Section Eight, and this is what makes Section Eight an attractive program for tenants. The Section Eight grant is set in the following way, and if you have my handout, there is a chart on page eight that you can follow along with.

First, the Housing Authority considers which is lower, the payment standard for a family size or the gross



rent. The gross rent is the lease or the contract grant, plus the utility allowance. The payment standard is the allowable rent for each family size. Now there's a chart that tells you what the rent should be depending on the number of people in your household. They take the lower of one of those two things, they subtract from that the total tenant payment. What's that? The total tenant payment is the tenant's minimum contribution to the Section Eight program and is generally 30% of the monthly adjusted household income.

Now when Section Eight calculates your income they don't take the total that you get that's reflected on your paycheck. They take that number and they subtract certain deductions based on whether you're disabled, based on whether you have kids, based on whether you have anticipated medical expenses, and so on. So it's not

everything that you make in a month, but it's that minus certain deductions. So you have to keep that in mind. That gives you the Section Eight subsidy amount. So you take the rent that the landlord says the apartment is worth, you subtract the subsidy amount, and you get the tenant's share. The tenant's share is usually between 30 and 40% percent of the tenant's adjusted monthly income, okay? So keep that in mind.

So finally, what are my obligations as a Section Eight tenant? The first obligation is to pay your share of the rent. Now, if you're on public assistance you have to make sure public assistance is paying the shelter allowance to the landlord.

Next, you have to recertify every single year. What's recertification? Section Eight will send you a letter saying you have to tell us who lives in

your apartment and how much money you're getting, every single year so they can readjust or recalculate your rent. If you don't do that, you could lose your Section Eight. It's very important and they take it very seriously.

Third, you have to follow any other rules of the Section Eight program. If they want to inspect your apartment, you have to allow them to inspect your apartment. You have to provide everything else that they require for your particular Section Eight program.

What are the landlord's obligations? A landlord has to follow what's called the housing quality standards. Housing quality standards mean the landlord has to make sure the apartment is in good quality. Otherwise, they will lose their Section Eight subsidy. That doesn't mean the tenant still doesn't have to pay their part of

the rent, but Section Eight will stop paying the subsidy portion to the landlord if the apartment fails housing quality standards.

What are examples of housing quality standards? Space and security, illumination, lighting, and electricity, air quality, whether there's lead paint in the apartment. Are the conditions sanitary? Do they take out the garbage? Is there heat? Are there smoke detectors? What's the structure of the building, and are there enough fire exits? So all of these things reflect a very high standard. Welfare will keep paying even if the apartment doesn't meet these standards, but Section Eight will not pay, and the subsidy portion will be suspended.

Now, recently NYCHA, the New York Housing Authority, decided that if an apartment remains suspended for housing quality standards after six months, they

will terminate the Section Eight contract. This means that if your apartment does not pass housing quality standards for six months, you will have to find a new apartment. You will immediately need to get a transfer voucher and look for a new apartment or you will lose your Section Eight.

Let's talk a little bit about the payment standard since we have another minute. The payment standard, as reflected on page nine of the handout. Now if you have three kids, let's say. The payment standard for New York City is \$1,462.00. That means that Section Eight thinks you should be able to find an apartment for \$1,462.00, a three bedroom apartment. Now, as many of us know that's very difficult to do in Manhattan and in any other borough in New York City, but that is the state of Section Eight. That is what the federal government and the

local housing authority has decided that Section Eight apartments should rent for.

Another thing to note is if you get NYCHA Section Eight, there is a lawsuit called Williams, and Williams says that the landlord cannot sue you for the NYCHA part of the Section Eight contract. They can only sue you for the tenant part. So for the purposes of housing court for a nonpayment proceeding, your rent is only the tenant's share of the rent, not what's on the lease, not the entire amount of rent.

So that's it. We have to wrap up now. Again, my name is Sateesh Nori. I work at the Legal Aid Society. Thank you again. Good afternoon.

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