



Commonwealth of Massachusetts DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn E. Polito, Lieutenant Governor ♦ Jennifer D. Maddox, Undersecretary

PHN 2021-14

To: Local Housing Authority (LHA) Executive Directors
From: Ben Stone, Director, Division of Public Housing
Date: July 14, 2021
Re: CHAMP Fair Housing PMR Criteria

Need to Know

- A. DHCD will begin implementing CHAMP PMR Criteria 3 Fair Housing in its PMR review beginning with the FYE 6/30/2022 LHAs. The upcoming fiscal year will serve as a planning year, during which LHAs that do not have all required plans in place will need to adopt these plans, with Board approval. For the following fiscal year (beginning with PMR review for LHAs with FYE 6/30/2023) LHAs will be evaluated, as part of PMR review, on whether they have determined their Affirmative Action and LHA Minority Placement Rates to be effective for their FYEs ending 6/30/23 or later (based on data from 7/1/2021-6/30/2022).
- B. CHAMP PMR Criteria 3 has two components:
 - a. **Required Plans:** Each LHA is required to have a Fair Housing Marketing Plan, a Language Access Plan, and a Reasonable Accommodation Plan. For purposes of PMR review during the initial planning year, LHAs that do not already have plans in place must adopt required plans so that they are in place by their next FYE on or after 6/30/22 (FYE 6/30/22, 9/30/22, 12/31/22 and 3/31/23).
 - b. **LHA Minority Placement Rates:** This PHN details a process a LHA can follow to determine Affirmative Action and placement rate as required by regulation, and to use the Minority filter in CHAMP in order to achieve placement rates. LHAs will need to review this process in advance of FYE 6/30/22-3/31/23 and implement a placement rate for FYE 6/30/23-3/31/24
- C. Beginning with PMRs for FYE 6/30/2022 LHAs, DHCD will be reviewing LHA use of the Fair Housing page in CHAMP to assure that LHAs are recording information related to Fair Housing (a forthcoming Technical Update will provide additional information).

Contents

| | |
|---|----|
| Overview..... | 2 |
| CHAMP PMR Criteria 3 Fair Housing..... | 2 |
| LHA Reporting Requirements for Criteria 3a and 3b..... | 5 |
| Process for Determining Affirmative Action Goal and Placement Rate, and Using Minority Filter in CHAMP..... | 5 |
| Appendix A. Fair Housing Form..... | 9 |
| Appendix B. CHAMP PMR Criteria 3b Timeline for June FYE..... | 10 |

Overview

Local Housing Authorities (LHAs) have responsibilities regarding fair housing for tenant selection in state-aided public housing. These requirements are contained in [Chapter 121B](#) and DHCD regulations [760 CMR 4.02\(1\)\(e\)](#), [760 CMR 4.07](#) and [760 CMR 5.00](#), as well as fair housing and anti-discrimination laws.

DHCD is implementing new PMR criteria to reinforce and review housing authority compliance with fair housing requirements.

This notice provides guidance on:

- CHAMP PMR Criteria 3: Fair Housing – planning year starting FYE 6/30/2022
- Process for determining Affirmative Action Goal¹, placement rate², and using the Minority³ filter in CHAMP

See [PHN 2021-05](#) for information on DHCD’s [Fair Housing Census Data Tool](#) which can assist LHAs in correctly implementing fair housing law in accordance with DHCD regulations.

CHAMP PMR Criteria 3 Fair Housing

DHCD will begin implementing CHAMP PMR Criteria 3 Fair Housing for the FYE 6/30/2022 LHAs as a planning year.

Table A. below provides a timeline overview of CHAMP PMR Criteria 3. Note that Criteria 3a has one planning year, while Criteria 3b has two planning years. There will be a Fair Housing Form in CHAMP that LHAs can use to upload plans and record data.

Table B. below details the two components of CHAMP PMR Criteria 3.

- Criteria 3a: LHA has required Fair Housing Market Plan, Language Access Plan, and Reasonable Accommodation Plan
- Criteria 3b: LHA Minority Placement Rates

Table A. CHAMP PMR Criteria 3 DHCD Review Timeline Overview

| FYE | 6/30/22 | 9/30/22 | 12/31/22 | 3/31/23 | 6/30/23 | 9/30/23 | 12/31/23 | 3/31/24 |
|---------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|--------------------|
| Review period | 07/01/21 – 06/30/22 | 10/01/21 – 09/30/22 | 01/01/22 – 12/31/22 | 04/01/22 – 03/31/23 | 07/01/22 – 06/30/23 | 10/01/22 – 09/30/23 | 01/01/23 – 12/31/23 | 04/1/23 – 03/31/24 |

¹ As defined in [760 CMR 5.03](#). : The applicable percentages of an LHA's units of family housing and elderly/handicapped housing as calculated pursuant to 760 CMR 5.10(3). See guidance below (Process for Determining Affirmative Action Goal and Placement Rate, and Using Minority Filter in CHAMP), beginning on p. 4, for details

² See 760 CMR 5.10(3).

³ As defined in [760 CMR 5.03](#): (a) Asian - with origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent; (b) Black or African American - with origins in any of the black racial groups of Africa; (c) Hispanic/Latino - of Mexican, Puerto Rican, Cuban, Central or South American origin; (d) American Indian or Alaska Native - with origins in any of the original peoples of North and South America, and who maintains tribal affiliation or community attachment; or (e) Native Hawaiian or Other Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands;

| Criteria 3a | Planning year | Planning year | Planning year | Planning year | Publishing year | Publishing year | Publishing year | Publishing year |
|-------------|---|---|---|---|---|---|---|---|
| Criteria 3b | Planning year #1 | Planning year #1 | Planning year #1 | Planning year #1 | Planning year #2 | Planning year #2 | Planning year #2 | Planning year #2 |
| | DHCD to review LHA's CHAMP Fair Housing Form only | DHCD to review LHA's CHAMP Fair Housing Form only | DHCD to review LHA's CHAMP Fair Housing Form only | DHCD to review LHA's CHAMP Fair Housing Form only | DHCD to review LHA's CHAMP Fair Housing Form <u>and</u> LHA determination of placement rate | DHCD to review LHA's CHAMP Fair Housing Form <u>and</u> LHA determination of placement rate | DHCD to review LHA's CHAMP Fair Housing Form <u>and</u> LHA determination of placement rate | DHCD to review LHA's CHAMP Fair Housing Form <u>and</u> LHA determination of placement rate |

Table B. CHAMP PMR Criteria 3

| | No Findings | Operational Guidance | Corrective Action |
|---|---|---|---|
| a | LHA Adopts ⁴ a Fair Housing Marketing Plan, Language Access Plan, and Reasonable Accommodation/Modification Policy. | LHA has Adopted some required plans, but not all, or a plan is incomplete. | LHA has no required plans. |
| b | LHA Adopted ⁵ Affirmative Action Goal and Placement Rate and completed Fair Housing Form in CHAMP. AND LHA is already at or above Affirmative Action Goal for each type of housing (Family & Elderly). OR LHA made offers to Minority applicants at a rate that met the LHA's specified placement rate for each type of housing (Family & Elderly). <i>(Based on all offers, whether applicant accepted or not.)</i> OR | LHA Adopted Affirmative Action Goal and placement rate and completed Fair Housing Form in CHAMP. AND LHA is BELOW Affirmative Action Goal for either type of housing (Family & Elderly). AND LHA did not make offers to Minority applicants at a rate that met the LHA's specified placement rate. AND | LHA did not complete Fair Housing Form and/or Board did not Adopt Affirmative Action Goal and placement rate. |

⁴ For purposes of PMR review, an LHA will only be deemed to have Adopted the required plans/policies if the plans/policies have been approved by its board.

⁵ For purposes of PMR review, an LHA will only be deemed to have Adopted the required Affirmative Action Goal and Placement Rate if they have been approved by its board

| | | |
|--|--|--|
| <p>LHAs are making a good faith effort to make offers that meet defined placement rate. <i>(LHAs can demonstrate this by consistently using Minority filter.)</i></p> <p>OR</p> <p>LHAs have insufficient number of Minority applicants on waitlist to meet Minority placement rate but can demonstrate that they are following their Fair Housing Marketing Plan.</p> | <p>LHA does not make good faith effort to make offers that meet defined placement rate.</p> <p>AND</p> <p>LHA does not follow Fair Housing Marketing Plan if they have insufficient number of Minority applicants on waitlist to meet Minority placement rate.</p> | |
|--|--|--|

Note: For planning year #1, LHAs will receive No Findings if they complete the required forms and Adopt a Fair Housing Marketing Plan, Language Access Plan and Reasonable Accommodation/Modification Policy (including Board Approval of the required plans. LHAs will get Operation Guidance if they adopt some of the required plans, but not all, or if a plan is incomplete. LHAs will get Corrective Action if they do not adopt any of the required plans.

Notes on Criteria 3a

Many LHAs may have a Fair Housing Market Plan, Language Access Plan, and Reasonable Accommodation Plan in place for their state-aided portfolio already, or may have such plans for their federally subsidized housing, which may be adapted or amended to include state-aided housing. DHCD will be releasing guidance and in certain cases templates related to the three required plans over the coming months. As guidance is released, LHAs should review to ensure that their existing plans are up to date. If LHAs do not have one of the plans or if their plan is outdated, LHAs should draft and adopt the required plans through Board vote. LHAs are encouraged to use the forthcoming applicable templates provided by DHCD as a guide, and LHA Boards should then formally vote to adopt the LHA’s plan. LHAs are strongly encouraged to have their own legal counsel review their plans before Board Adoption, particularly if they are not using DHCD provided templates.

Notes on Criteria 3b

See section on “**Process for determining Affirmative Action Goal and placement rate, and using Minority filter in CHAMP**” below.

DHCD will measure offers as **the percentage of housing offers made to Minority households through CHAMP, whether the household accepted housing or not.**

- Planning Year #1: DHCD will evaluate if LHAs completed the required “Fair Housing Form” in CHAMP.
- Planning Year #2: DHCD will evaluate all of Criteria 3b, including making use of the Fair Housing Form in CHAMP and making offers at a rate that meets the LHA’s established placement rate.

LHAs that currently have a placement rate (set within the past year) and/or Affirmative Action goal (set within the past two years) will be able to record this information in the Fair Housing tab for the FYE 6/30/2022 – FYE 3/31/2023 PMR quarters (even if the Affirmative Action Goal or placement rate differs from this released guidance). Starting with the FYE 6/30/23 LHAs, LHAs should follow the guidance in this PHN for setting Affirmative Action Goals and placement rates.

LHA Reporting Requirements for Criteria 3a and 3b

There will be a new Fair Housing page in CHAMP established in the coming months. This page will provide LHAs with a space to record fair housing data, record affirmative action goal and target placement rate, and upload the three plans required by the regulations. This page will be available in CHAMP beginning in calendar year 2022, prior to the first planning year quarter for Criteria 3. LHAs will be required to complete the various upload and reporting requirements prior to their fiscal year end. Therefore, in the final quarter of an LHA's fiscal year, the LHA will need to review their tenant data and consult [DHCD-provided Census data](#) in order to complete the data reporting requirements. Part of the Fair Housing page will need to be completed every other year, while other sections will need to be completed/revised each year in accordance with the regulations. DHCD will provide further guidance on the Fair Housing page and its uses in a CHAMP Technical Update prior to its release.

Process for Determining Affirmative Action Goal⁶ and Placement Rate, and Using Minority Filter in CHAMP

- LHAs that have not evaluated their Affirmative Action Goal in the past two years should start at Step 1. These LHAs should begin the process by determining their Affirmative Action Goal.
- LHAs that know their current Affirmative Action Goal, but have not set a placement rate in the past year should start at Step 3. These LHAs should begin the process by setting a placement rate.
- LHAs that know their current Affirmative Action Goal and have set a placement rate in the past year should start at Step 5, 6, or 7 depending on how long ago the LHA determined their Affirmative Action Goal and placement rate.

LHAs will use the Fair Housing page in CHAMP to record/organize information below (will be available in CHAMP in 2022). See Appendix A. Note some of the below information will also need to be recorded in an LHA's Fair Housing Marketing Plan.

Step 1: Determine Affirmative Action Goal.⁷

LHA shall biennially determine whether the percent of Minority households in the LHA's housing by program (family or elderly) is significantly below the percentage of Minority individuals in the general population of the city or town or in the general population of the applicable metropolitan statistical area (MSA), whichever is greater ([760 CMR 4.07\(2\)](#) and [760 CMR 5.10\(3\)](#)).

All LHAs should determine their Affirmative Action Goal. For family housing, the Affirmative Action Goal should be the percentage of Minorities who are under age 55 in either the city/town or MSA (whichever is higher). For elderly/handicapped housing, the Affirmative Action Goal should be the percentage of Minorities who are age 55 and older in either the city/town or MSA (whichever is higher).

⁶ As defined in [760 CMR 5.03](#).

⁷ The use of 55+ and under 55 thresholds are based on availability of data. Currently, Census data is only available for populations under 55 and 55+. For purposes of determining affirmative action goals, DHCD has determined that the under 55 Census data is the most appropriate for family housing, and the 55+ Census data is most appropriate for elderly/handicapped housing.

DHCD has provided a data tool (available at hed-lhacensus.azurewebsites.net), to assist with these comparison.

Step 2: Compare LHA tenant population with Affirmative Action Goals⁸

If the LHA determines that the percentage of Minority tenant households in the LHA's state-aided housing by program is more than 5 percentage points lower than the percentage Minority in the general population (city/town or MSA, whichever is higher), then the LHA has not met its Affirmative Action Goal for that program and will need to establish a placement rate (Step 2)

If the percentage of Minority tenant households in the LHA's state-aided housing by program is not significantly below (greater than 5 percentage points) the percentage for Minorities in the general population, the LHA currently meets its Affirmative Action Goal for that program.⁹ A Minority tenant household is one in which any member of the household, of any age, identifies as a Minority.

DHCD has provided a data tool (available at hed-lhacensus.azurewebsites.net), to assist with these comparison.

Table C. Data Examples for Family Housing

| | City/Town Data: % of population <i>under age 55</i> with a Minority race/ethnicity | MSA Data: % of population <i>under age 55</i> with a Minority race/ethnicity: | LHA Data: % of households in family housing in which at least one member identifies as a Minority | Comparison | Affirmative Action Goal Met? |
|-----------|--|--|--|--------------------|---|
| Example 1 | 9.7 | 34.3 | 12 | $34.3 - 12 = 22.5$ | No; difference is 22.5%; Affirmative Action Goal is 34.3% |
| Example 2 | 56 | 34.3 | 52 | $56 - 52 = 4$ | Yes; difference is less than 5% |

Table D. Data Examples for Elderly/Handicapped Housing

| | City/Town Data: Percent of population <i>age 55 or older</i> with a Minority race/ethnicity | MSA Data: Percent of population <i>age 55 or older</i> with a Minority race/ethnicity | LHA Data: % of households in elderly/handicapped housing in which at least one member identifies as a Minority | Comparison | Affirmative Action Goal Met? |
|--|--|--|---|------------|------------------------------|
|--|--|--|---|------------|------------------------------|

⁸ The procedure below is designed to establish whether any discrepancy between the percentage of Minority tenant households in the LHA's state-aided housing and the percentage of Minority tenant households in the general population is "significant" for PMR purposes. This guidance, and the procedure described below, supersede any earlier guidance, procedures or forms relating to the calculation of Affirmative Action Goals for state-aided public housing.

⁹ Note that LHAs are comparing Minority tenant households (defined as one in which any member of the household, of any age, identifies as a Minority, see [760 CMR 5.10\(3\)](#)) with the percentage of Minorities in the general population, measured by the percent of the population.

| | | | | | |
|-----------|------|------|----|--------------------|--|
| Example 1 | 12.2 | 18.2 | 20 | $18.2 - 20 = -1.8$ | Yes; difference is negative (LHA has higher percentage than MSA and City/Town) |
| Example 2 | 7.2 | 4.0 | 1 | $7.2 - 1 = 6.2$ | No; the difference is 6.2%; Affirmative Action Goal is 7.2% |

Step 3: If LHA has not met its Affirmative Action Goal, the LHA should set and implement a placement rate (see [760 CMR 5.10\(3\)](#)).

If an LHA has not met their Affirmative Action Goal for a program, the LHA shall provide an affirmative action preference in placement for the program until the Affirmative Action Goal is met.

Placement rate is the percentage of Minority households offered housing, whether the household accepted housing or not.

If an LHA provides such a preference, the LHA shall establish a placement rate by which it will place Minority and non-Minority applicants during the next 12 months. The LHA shall establish the percentage of its placements, by program, to which the preference shall apply for each type of housing involved (Family or Elderly/Handicapped); such percentage shall be between 20% to 33 1/3%.

Table E. Placement Rates

| Difference between tenant population data and Affirmative Action Goal | Placement rate |
|---|------------------|
| 5 percentage points or less | None required |
| 6 – 19 percentage points difference | 1 in 5 (20%) |
| 20 – 49 percentage points difference | 1 in 4 (25%) |
| 50 percentage points or more | 1 in 3 (33 1/3%) |

The affirmative action preference in placement, when applicable, shall result in selection of applicants with at least one Minority household member for a unit of appropriate size in accordance with the highest preference category within the highest priority category of general applicability. An LHA should house applicants through CHAMP based on their priority, preference and application date and use the Minority Preference filter in CHAMP as a tool to ensure that progress towards its Affirmative Action Goal is being made. **The placement rate pertains to the extent of the affirmative action preference only and is not intended, and shall not be applied, as a limit on the number of Minority households that should be offered housing.**

LHAs should use the Fair Housing Form in CHAMP to help guide them through the above calculations. After filling out all the relevant information, LHAs should finalize the form and upload a Board vote adopting the Affirmative Action Goal and placement rate. LHAs should also use this information to

complete their Fair Housing Marketing Plan. DHCD will review and approve this information in CHAMP, including the placement rate.

Step 4: LHA implements placement rate for 12 months for each program.

At the end of 12 months, LHAs should evaluate their progress towards their Affirmative Action Goal. An LHA's actual placement rate is based on the demographics of the households that were housed throughout the preceding year. LHAs should compare their actual placement rate to the placement rate set at the beginning of the 12 months.

LHAs will be able to review fair housing data in CHAMP to see their placement rate for the year-to-date and year end.

Step 5: At end of Year #1, LHA must again compare program data with Affirmative Action Goal.

On an annual basis LHAs should determine whether the number of households in its family housing with at least one Minority member and the number of households in its elderly/handicapped housing with at least one Minority member meets the applicable Affirmative Action Goal. If the LHA does not meet its Affirmative Action Goal in either program, the LHA must continue implementing the previously determined placement rate for that program. If either program meets the Affirmative Action Goal, the LHA no longer needs to implement a placement rate for that program throughout Year #2.

Step 6: LHA implements placement rate for Year #2 for each program (if needed).

Step 7: At end of Year #2, LHA must repeat process starting with Step 1 (see above).

Appendix A. Fair Housing Form

The Fair Housing Form in CHAMP will provide areas for LHAs to record their data and calculate their Affirmative Action Goal and placement rate. Additionally, LHAs will be able to use the form to generate documents for Board Approval and submittal to DHCD.

| |
|--|
| Fair Housing Form |
| Family Housing |
| <ul style="list-style-type: none"> • City/Town Data: % of population <i>under age 55</i> with a Minority race/ethnicity |
| <ul style="list-style-type: none"> • MSA Data: % of population <i>under age 55</i> with a Minority race/ethnicity |
| <ul style="list-style-type: none"> • LHA Data: % of households in family housing in which at least one member identifies as a Minority |
| <ul style="list-style-type: none"> • Difference between City/Town/MSA data and LHA data |
| <ul style="list-style-type: none"> • Affirmative Action Goal |
| <ul style="list-style-type: none"> • Placement rate (N/A if Affirmative Action Goal has been met) |
| Elderly/Handicapped Housing |
| <ul style="list-style-type: none"> • City/Town Data: % of population <i>age 55 and over</i> with a Minority race/ethnicity |
| <ul style="list-style-type: none"> • MSA Data: % of population <i>age 55 and over</i> with a Minority race/ethnicity |
| <ul style="list-style-type: none"> • LHA Data: % of households in elderly/handicapped housing in which at least one member identifies as a Minority |
| <ul style="list-style-type: none"> • Difference between City/Town/MSA data and LHA data |
| <ul style="list-style-type: none"> • Affirmative Action Goal |
| <ul style="list-style-type: none"> • Placement rate (N/A if Affirmative Action Goal has been met) |

Appendix B. CHAMP PMR Criteria 3b Timeline for June FYE

| Calendar Year 2022 | | | | | | | | | Calendar Year 2023 | | | | | | | | | | | | Calendar Year 2024 | | | | | | |
|--|-----|------------------|-----|-----|-----|-----|-----|-----|--------------------|-----|-----|---|-----|------------------|----------------------------------|-----|-----|-----|-----|-----|--------------------|-----|-----|-----|-----|-----|------------------|
| Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | |
| | | FYE ¹ | | | | | | | | | | | | FYE ² | | | | | | | | | | | | | FYE ³ |
| Set AA Goal & Year 1 placement rate ⁴ | | | | | | | | | | | | Revisit data; Set Year 2 placement rate | | | | | | | | | | | | | | | |
| Implement Year #1 Placement Rate | | | | | | | | | | | | | | | Implement Year #2 Placement Rate | | | | | | | | | | | | |

FYE 1 No ratings for this FYE (review period July 1, 2021 – June 30, 2022). Planning year for Criteria 3a and Planning year #1 for Criteria 3b. For Criteria 3b, DHCD will review Fair Housing Form only (will not compare offers/placement rate).

FYE 2 Publishing year for Criteria 3a and Planning year #2 for Criteria 3b. For Criteria 3b, DHCD will review all components of criteria.

FYE 3 Publishing year for Criteria 3a and 3b.

FYE 4 LHAs that have an Affirmative Action Goal or placement rate previously set, may record this information in the CHAMP Fair Housing tab and continue to implement. For FYE 6/30/23, 9/30/23; 12/31/23/ and 3/31/24 PMRs, LHAs should shift to using the Affirmative Action Goal and placement rate guidance released in this PHN. LHAs should set AA Goal and placement rate each fiscal year, before the first day of their next fiscal year.