YOUR RIGHTS AS A SECTION 8 TENANT:

PROJECT-BASED AND VOUCHERS
Who runs your Section 8 program?

There are two different Section 8 programs. Both programs have income and eligibility requirements. The rules for each program are different.

You can identify which Section 8 you have by where the annual recertification takes place.

1. Project-based Section 8 building
   - You go to your building management each year to determine your rent.

2. Section 8 voucher program
   - You go to a State agency to have your rent determined each year.  
     *For Oahu:* This is usually the Hawaii’s Public Housing Authority (HPHA) located at 1002 School Street in Kalihi (formerly known as the Housing and Community Development Corporation of Hawaii, or HCDCH).

   OR

   - You go to a City and County agency to have your rent determined each year, and you have a Section 8 “worker.”  
     *For Oahu:* This is 842 Bethel Street (downtown Honolulu) or 1000 Uluohia Street (Kapolei).

Rules for all Section 8 residents include:

- Your unit must be your only residence.
- You must notify management, your landlord, and/or your Section 8 worker if you will be absent from your unit.
- Only persons on the lease and approved by your landlord/manager or Section 8 worker can occupy the unit.
- The Violence Against Women Act (VAWA) applies to your lease, and you should not be evicted for damages or lease violations caused by an abuser.
PART 1:
PROJECT–BASED SECTION 8
(i.e., you go to your building management for your annual recertification)

- In a project-based Section 8 building, the entire complex is subsidized (i.e., the complex receives state/federal funds or tax credits). However, some tenants may be in an “affordable apartment.”
- If you move out of your building, you do not take your Section 8 with you, and you are entitled to Section 8 only if you move into another project-based building, or if you receive approval for a Section 8 voucher.
- The Residential Landlord-Tenant Code applies to project-based leases. However, because you are in a building which is itself subsidized, you also have some additional rights.

If the information in your lease and house rules is different than the information presented here, follow the procedures in your specific lease and/or house rules!

If you are living in a project-based Section 8 building, you have a right to renewal of your lease.
Management does not have the right to tell you to move at the end of your current lease if you’re in project-based Section 8. Refusal to renew your lease or termination of your lease generally must be based on material non-compliance with the lease. Some examples of non-compliance are substantial lease violations, fraud, repeated minor lease violations, non-payment of rent, drug abuse and other criminal activity, or other good cause.

You must attend a yearly recertification meeting.
At this annual meeting, you must sign forms, and you must provide management with current proof of income, because your rent is based on your income. If you do not agree with the rent calculation, or you do not understand why your rent is set at a certain amount, you should put in a written request for a grievance hearing within ten days. Once you request the hearing, you will meet with the complex management. If you still do not agree with the decision after a hearing, you can call Legal Aid to see if we can assist you.

Your unit must pass a yearly inspection.
The landlord has the right to have your unit in a clean and safe condition. Failure to keep household standards may result in a termination or eviction.

You must re-certify every year and your unit must be inspected every year. If you fail to provide the necessary information by the due date, refuse to participate, or fail your inspection, your rent will immediately increase to fair market value. This will be much higher than your usual rent because fair market value rent is not based on your income.

Always cooperate with re-certifications and inspections, or else you will become responsible for a much higher amount of rent. The higher rent will then continue until your recertification or inspection is completed.
Meeting with Owner

If you receive a notice of lease non-renewal, lease termination, or lease violation, you have the right to a meeting with your building owner.

If you do not agree with management’s view, put in an immediate written request for a meeting with the owner. Keep a copy of the request. Generally, you have only ten days to request a meeting.

Prepare for your meeting

Gather proof you have about your side of the story, and why you disagree with your building’s management. For example, if you have paid your rent, take your receipts. Many disputes are settled at the owner meeting. However, if the owner still wants to terminate your lease, your landlord must still go to court to have you evicted.

Eviction

Your landlord must file a Complaint for Writ of Possession in District Court before he can lock your door or force you to leave your unit. Your landlord must go through the court process to evict you.

For more information on eviction, please see Legal Aid’s “Eviction: The Court Process” brochure.
PART 2: SECTION 8 VOUCHERS

(i.e., you go to a State, or City and County, office for your annual recertification, and you have a “worker”)

The Section 8 Housing Choice Voucher Program is a federally-funded program that helps its participants with monthly rent payments. Unlike Public Housing, you rent from a private landlord. If you qualify for Section 8, then the City & County or HPHA issues a voucher for part of your rent. You are responsible for paying the other part of your rent directly to your landlord.

Your landlord signs a contract with Section 8 called the Housing Assistance Payment (HAP) contract. In order to receive housing assistance payments from Section 8, your landlord promises certain things, such as keeping the apartment up to proper housing standards. In order for you to continue to be on Section 8, you are also responsible for doing certain things, such as paying your rent on time and completing annual recertifications.

Section 8 rarely opens the waiting list for new vouchers.

However, you should always call the Section 8 office for the most up-to-date information. Watch for announcements, and make all due dates if you would like to apply for a voucher. If you are on the waiting list, make sure Section 8 always has your current address. If Section 8 cannot locate you, you will be taken off the list. The wait for a Section 8 voucher is very long. Generally, you will only receive a voucher if someone else with a voucher is terminated from the program.

Unit, landlord, and lease approval:

If you have a Section 8 voucher, you must find a rental with a private landlord. A landlord does not have to accept a Section 8 voucher, and Section 8 does not have to accept a unit or landlord. Section 8 must inspect your chosen unit and must approve your lease and your landlord before you can move in. Section 8 will not approve a unit if it is an illegal unit or if it is in bad condition. If Section 8 does not approve the unit and landlord you choose, you need to look for a different unit. Section 8 gives you 60 days to find a unit from when your voucher is first issued, and Section 8 seldom gives extensions of time to find a new unit.

If you need an extension of your 60 days, you must:

- Ask for an extension before your 60 days expire;
- Put the request in writing and keep a copy for your records;
- Explain in your request in detail how hard you have tried to find a new unit, the problems you have had, and include a list of all the places you tried to get with your voucher; and
- Continue looking for a suitable landlord and unit, because you still may not receive an extension.

The Section 8/private landlord lease:

- Once you find a landlord, Section 8 must inspect the unit and approve the lease.
- If you move in prior to Section 8 approval, you will be personally responsible for all the rent.
- Do not move into a unit until after Section 8 schedules an inspection and approves the unit.
- Do not sign a lease until Section 8 approves the unit and the lease.
- If the unit is approved, then you can sign the lease and move in.
• If the unit does not pass inspection, you may need to start looking for a new unit.
• Your 60 days to find a unit starts counting from the original day your voucher is issued. You do **not** get an additional 60 days if a unit you find does not pass inspection.

The lease between you and your landlord is covered by the Residential Landlord-Tenant Code. Any eviction must be through District Court. However, you also have additional rights under the Section 8 Lease Addendum. If there are disagreements between your lease and the Section 8 Addendum, the Section 8 Addendum is followed.

**Tenants:** Only those persons listed on the lease are allowed to live in the unit. An unauthorized tenant may result in Section 8 termination and/or eviction. The landlord and Section 8 must approve additional tenants in writing. There should be no problem adding children to your unit, but you must still notify your landlord and Section 8.

Be sure you report any additional tenants to Section 8, as this may change your rent. Any new tenants must also be eligible to be Section 8 participants.

**Live-in aide:** A live-in aide is not considered a tenant, and should not be listed as a tenant on your lease. However, a live-in aide must still meet the same qualifications as a tenant. The income of a live-in aide is not used in determining your income.

You should not charge a live-in aide rent. If a live-in aide does pay rent, you must claim this as income. A live-in aide normally provides their services for free in exchange for free rent.

**Payment**

Once you sign your lease, Section 8 pays part of the rent, and you pay the rest of the rent to the landlord directly. Your share of the rent is based on your income. Section 8 has a cap for the maximum amount of rent a landlord can charge. Section 8 also determines what size unit you can rent, but you can rent a larger unit if you can still find one in your given price range. You cannot be penalized if Section 8 does not pay your rent on time, unless you have been terminated. If your landlord charges you for anything more than the lease amount plus the amount to fix any damage you cause, you should notify your Section 8 worker.

**Rent calculation**

You will generally pay 30% of your adjusted income. You may receive a deduction for medical expenses or a utility allowance. Go over these calculations carefully with your worker. If your income changes during the year, immediately report this change to Section 8 in writing. Your rent may be decreased if your income has decreased.
New Lease Approval
Section 8 must approve a new lease if there are changes that affect the amount of rent, including changes in responsibility for utilities or appliances. The landlord must notify Section 8 sixty days before a change in payments.

Yearly Recertifications and Inspections
1) Each year or every other year you must attend a meeting with Section 8 to prove your current income and to re-calculate your rent.
   • You will receive written notice of the meeting.
   • If you cannot make the meeting, be sure to respond to your worker in writing to reschedule the meeting.
   • Failure to attend the meeting or failure to provide the information requested may result in termination from the Section 8 program.
2) Each year your apartment must be inspected for safety.
   • You and the landlord will receive written notice of the time and date of the appointment.
   • Do your best to keep the original appointment. There are a limited number of safety inspectors, and rescheduling may delay approval of and payment for your unit.
   • If your appointment is not complete, or if violations must be corrected, your inspection may not be completed in the necessary time.

Section 8 will not make payment to a landlord if a life-threatening violation is not corrected within 24 hours, or if a routine violation is not corrected within 30 days of the inspection. You are not responsible for making an additional payment if Section 8 does not pay. The lease must be terminated if the repairs are not made. Section 8 will determine how long they will allow you to stay in the unit while awaiting repairs.

If you yourself do not make necessary repairs that Section 8 believes are your responsibility to perform, you may be terminated from Section 8.

Portability
Section 8 is required to inform families that they can use their voucher to lease a unit anywhere in the United States where there is a housing agency operating a housing choice voucher program. Portability allows participants to move to follow job opportunities, to select the best school districts, or to be near family members or child care providers.

Once your voucher is ported, the new Section 8 agency is in charge. Make sure that housing is available in the new area. If you are unable to secure a unit in the new area, your voucher will be terminated.

Eviction or Lease Termination
A Section 8 voucher tenant is evicted through the court process. An eviction causes problems with Section 8 and may result in termination of your voucher. For more information on eviction, please see Legal Aid’s “Eviction: The Court Process” brochure.

Your lease cannot be terminated by your landlord during the initial lease term except for good cause. Some examples of good cause are: serious or repeated lease violations, fraud, non-payment of rent, drug/alcohol abuse, criminal activity, or other good cause. The Violence Against Women Act (VAWA) applies to your lease. You should not be terminated for being a victim of domestic violence.
1) Termination of Lease by Tenant:
A tenant may terminate a lease after the initial lease period. Termination during the initial lease period requires written permission of the landlord. Only in limited circumstances can a tenant terminate a lease during the initial lease period. Be very careful entering a lease, as you cannot easily move.

2) Termination of Lease by Landlord:
The landlord does not have to renew your lease at the end of the lease term, nor does the landlord have to state a reason for non-renewal. The landlord can require you move at the end of your lease period, or can give you 45 days written notice to move. You will have to move. If you stay beyond the end of your lease, you may be responsible for paying double rent. When you move to a new unit, your voucher will transfer with you, but you must have your new unit, landlord, and lease approved by Section 8.

3) Eviction by Landlord:
If you are in violation of your lease, your landlord may file a Complaint for Writ of Possession in District Court to force you to move from your unit. Your landlord must notify Section 8 of the eviction. You are also responsible for notifying Section 8 that your landlord is trying to evict you. If you are evicted by your landlord for something other than not moving at the end of your lease, your Section 8 voucher will probably be terminated.

IF YOU ARE BEING EVICTED BY YOUR LANDLORD, YOU MAY CONTACT LEGAL AID TO APPLY FOR ASSISTANCE.

Termination from the Section 8 Voucher Program
Section 8 can terminate your participation in the program for various reasons including: failure to complete re-certification, a monetary judgment against you from a former owner, and serious or repeated violations of the lease. If you are evicted from your unit, Section 8 will probably terminate your participation in Section 8.

Section 8 must send you a notice citing the reason for termination, the effective date of termination, and your right to a hearing. If you receive a termination notice from Section 8, you should make an immediate written request for a grievance hearing. An informal meeting will be scheduled with your worker. You will then be sent a report of the meeting and the Section 8 worker’s decision to terminate or not. If you are still being terminated, you can request a review of the decision.

You should immediately call Legal Aid if you are notified that your Section 8 will be terminated to see if we can assist you. The decision by Section 8 may be appealed to Circuit Court within 30 days. If Legal Aid is able to represent you during the Section 8 termination, we may then be able to do the appeal on your behalf. Legal Aid will not usually do the appeal unless we already represented you at earlier hearings as well.
HEARINGS
If Section 8 makes a decision that affects your Section 8 voucher benefits

As a participant in the Section 8 Housing Choice Voucher Program, you are entitled to an informal hearing when Section 8 makes a decision that affects your benefits.

Examples of when you ARE entitled to a hearing:
• When you disagree with how your family’s annual or adjusted income was calculated
• When you disagree with how your share of the rent was calculated
• When you disagree with the utility allowance you were provided
• When Section 8 threatens to terminate or does terminate your Section 8 benefits
• When you think that you have been issued a voucher for the wrong size unit
• When Section 8 refuses or threatens to refuse to issue your voucher for any reason

However, there are certain decisions that affect your benefits where Section 8 is not required to give you an opportunity for an informal review.

Examples of when you ARE NOT entitled to a hearing:
• When Section 8 determines your unit does not meet housing quality standards
• When an issue is between you and your landlord
• When your dispute is about general policy issues or class grievances
• When Section 8 refuses to grant approval of a tenancy

If you ARE entitled to a hearing, you must act promptly (i.e., within as little as 15 days) to dispute a Section 8 decision and to ensure your rights are not forfeited.

The informal hearing and request for review

How to request a hearing:
• Send a written request to your Section 8 caseworker asking for an informal hearing.
• Send the notice within 15 calendar days after the dispute arose. If there was a written notification which gave rise to the dispute, send the notice within 15 days from the date on the notice (not from the date you received the notice).
• Make sure your complaint states why you want an informal hearing (i.e., what action Section 8 took that affected your rights and why you disagree with Section 8).

Section 8 must grant you an informal hearing as soon as reasonably possible after receipt of the complaint.
What to do to prepare for the informal hearing:

- You have the right to view any evidence or documents that Section 8 used in making their adverse decision against you. Requests for documents or evidence must be received no later than 7 days before the hearing.
- If Section 8 does not make a certain document available after you request to see it, they are not allowed to rely on it at the hearing.
- You are allowed a representative. This person does not have to be an attorney.
- Ask for an interpreter if you need one.
- Bring witnesses and any other evidence you can find to help prove your case.
- Develop an argument as to why you believe Section 8 was wrong in their action or decision that affected your benefits.
- Section 8 will want relevant facts and legal analysis to overturn their decision. Section 8 will not rely on emotional arguments or the fact that you may be homeless if you do not have Section 8.

What to expect at the informal hearing:

- It is an opportunity for you to state why you do not agree with a decision made by your Section 8 caseworker.
- You will meet with your caseworker and a hearing officer, who is most likely your caseworker’s supervisor.
- Your caseworker will go first and outline his/her case, which involves giving a chronology of relevant events leading to the decision that you are disputing.
- You are then allowed to present your case and make your arguments. Make sure that you provide Section 8 with the evidence and witness testimony that proves your case.
- Remember to stay calm and orderly for the informal hearing.
- Remember to object if Section 8 uses any document or evidence that you did not have access to prior to the hearing (before your hearing you need to ask Section 8 to review the evidence they will be relying on for this to work).

After the informal hearing:

- A written summary of the informal hearing must be prepared by Section 8 within 15 days of the informal hearing.
- The summary will inform you of Section 8’s decision.
- The summary should inform you if you are allowed another opportunity to dispute Section 8’s decision through a formal hearing.

Am I entitled to another hearing?

If you are not satisfied with the results of your informal hearing, you may be allowed another opportunity to argue your case through a review hearing. The review hearing is different from the informal hearing because the administrator (i.e., head) of Section 8 or his/her representative will be conducting the hearing.

Generally, if Section 8 refused to issue you a new voucher or if they terminated your assistance, you are allowed a review hearing. Section 8’s written summary of your informal hearing should inform you whether you are allowed another opportunity for a hearing. If you are allowed another hearing, you must request the additional hearing in writing and within 15 days after receipt of the written summary of the informal decision.
This written request needs to be more detailed than the one you sent for an informal hearing. Your written request for a formal hearing must contain the following information:

- Name, address, and telephone number
- A summary of the dispute involved and your argument
- Clear statement of your position
- Reasons or legal authorities in support of your argument
- What action or relief you are seeking

You should prepare for your review hearing in the same manner that you prepared for the informal hearing. If you made mistakes at your informal meeting, such as forgetting to submit all your evidence, the formal hearing is a good chance to correct those mistakes.

If you do not agree with Section 8’s decision after the formal hearing, you may still be able to obtain relief through the court process. You can contact Legal Aid to see if additional assistance may be possible.

Legal Aid Society of Hawai‘i
924 Bethel Street
Honolulu, HI 96813

www.legalaidhawaii.org

Legal Aid's Hotline:
O'ahu: 808.536.4302
Neighbor Islands: 1.800.499.4302

REMEMBER:
This brochure is meant to provide general information, and does not provide specific legal advice about your individual case. The law often changes. Each case is different.