ADMISSIONS AND CONTINUED OCCUPANCY POLICY

Effective: October 1, 2024

Housing Authority of the City and County of San Francisco

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CHAPTER 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

A public housing agency (PHA) receives its operating subsidy for the public housing program from the Department of Housing and Urban Development (HUD). The PHA is not a federal law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the public housing program. The PHA must ensure compliance with federal laws, regulations and notices, and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operations.

This chapter contains information about the PHA and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE AUTHORITY

1-I.A. **OVERVIEW**

This part describes the PHA's creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF THE AUTHORITY

Public housing is funded by the federal government and administered by the Housing Authority of the City and County of San Francisco (the Authority) for the jurisdiction of the City and County of San Francisco, California.

The Authority has a governing Board of Commissioners ("Board"). The Board is appointed by the Office of the Mayor of the City and County of San Francisco. The Board establishes policies under which the Authority conducts business and ensures that those policies are followed by Authority staff. The Board is responsible for preserving and expanding the Authority's resources and assuring the Authority's continued viability and success. Formal actions of the Authority are taken through written resolutions, adopted by the Board and entered into the official records of the Authority.

The Executive Director (ED) is selected and hired by the board. The ED oversees the day-to-day operations of the Authority and is directly responsible for carrying out the policies established by the Board. The ED's duties include hiring, training, and supervising the Authority's staff, as well as budgeting and financial planning for the Authority. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates.

1-I.C. AUTHORITY MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

Authority Policy

The mission of the Authority is to deliver safe and decent housing for low income households and integrate economic opportunities for residents.

1-I.D. THE AUTHORITY'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the Authority is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, the PHA resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards-in compliance with the National Standards for the Physical Inspection of Real Estate (NSPIRE) inspection standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.

- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.

The PHA will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.

PART II: THE PUBLIC HOUSING PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance, and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the Federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace, or revitalize, severely distressed public housing developments. Highlights of the Public Housing Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over- income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

1-II.B. public housing program basics

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with the PHA to administer programs in accordance with HUD regulations and provides an operating subsidy to the PHA. The PHA must create written policies that are consistent with HUD regulations. Among these policies is the PHA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the Board of the PHA.

The job of the PHA, pursuant to HUD regulations is to provide decent, safe, habitable dwelling units to low-income families at an affordable rent. The PHA screens applicants for public

housing and, if they are determined to be eligible for the program, the PHA makes an offer of a housing unit. If the applicant accepts the offer, the PHA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a tenant in the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide) who (1) executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. (24 C.F.R. § 966.53.). The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the PHA owns the public housing development, the PHA is the landlord. The PHA must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and PHA policy.

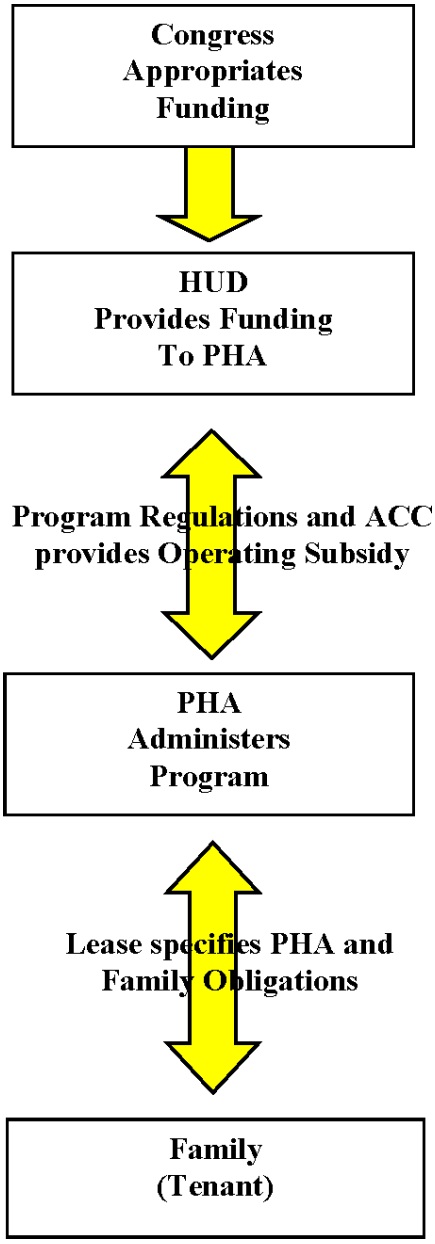
1-II.C. PUBLIC HOUSING PARTNERSHIPS

To administer the public housing program, the PHA must enter into an Annual Contributions Contract (ACC) with HUD. The PHA also enters into a contractual relationship with the tenant through the public housing lease. These contracts define and describe the roles and responsibilities of each party.

In addition to the ACC, the PHA and family must also comply with federal regulations and other HUD publications and directives. For the program to work and be successful, all parties involved – HUD, the PHA, and the tenant – play an important role.

The chart on the following page illustrates key aspects of these relationships.

The Public Housing Relationships



What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices, and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to PHAs
- Allocate capital funding to PHAs
- Provide technical assistance to PHAs on interpreting and applying program requirements
- Monitor PHA compliance with program requirements and PHA performance in program administration

What does the Authority do?

The Authority's responsibilities originate in federal regulations and the ACC. The Authority owns and manages public housing developments, administers the program under contract with HUD, and has the following major responsibilities:

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities
- Establish local policies and procedures for operating the program
- Accept applications from interested applicant families and determine whether they are income eligible for the program
- Maintain waiting list and select families for admission
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner
- Make unit offers to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of safe, habitable dwelling units (including assuring compliance with NSPIRE standards)
- Make sure the PHA has adequate financial resources to maintain its housing stock
- Perform regular reexaminations of family income and composition in accordance with HUD requirements
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, the PHA's ACOP, and other applicable federal, state, and local laws

What does the tenant do?

The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease and PHA house rules, as applicable
- Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by the PHA
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of NSPIRE standards caused by the family
- Not engage in drug-related or violent criminal activity
- Notify the PHA before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family; not to sublet the unit or assign the lease
- Promptly notify the PHA of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs
- Take care of the housing unit and report maintenance problems to the PHA promptly

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable Code of Federal Regulations include:

- 24 C.F.R. Part 5: General Program Requirements
- 24 C.F.R. Part 8: Nondiscrimination
- 24 C.F.R. Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 C.F.R .Part 902: Public Housing Assessment System
- 24 C.F.R. Part 903: Public Housing Agency Plans
- 24 C.F.R. Part 945: Designated Housing
- 24 C.F.R. Part 960: Admission and Occupancy Policies
- 24 C.F.R. Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 C.F.R. Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY

1-III.A. OVERVIEW AND PURPOSE OF THE POLICY

The ACOP is the PHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review. (24 C.F.R. Part 903) The ACOP also contains policies that support the objectives contained in the PHA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The PHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the PHA's written policy. At a minimum, the ACOP should cover PHA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapters 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements; (Chapter 11)
- Polices and rules about safety and ownership of pets in public housing (Chapter 10)

Mandatory vs. Discretionary Policy

HUD makes a distinction between mandatory policies and non-mandatory policies:

- Mandatory policies: those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel

Optional, non-binding guidance: includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The ACOP is comprised of mandatory policies and optional PHA policy. HUD's new direction emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of PHA policy, even though it is not mandatory, provides a PHA with a "safe harbor." If a PHA adopts an alternative policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but PHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. updating and revising the policy

The PHA will revise this ACOP as needed to comply with changes in HUD regulations. The original policy and any changes must be approved by the Board of the PHA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

The PHA will review and update the ACOP as needed to reflect changes in regulations, PHA operations, or when needed to ensure staff consistency in operation.

1-III.D. HOPE VI APPLICABILITY

The HOPE VI Program was developed as a result of recommendations by National Commission on Severely Distressed Public Housing, which was charged with proposing a National Action Plan to eradicate severely distressed public housing.

San Francisco was selected as a HOPE VI Program recipient and rebuilt the following public housing developments: Bernal Heights; Hayes Valley North and South; North Beach; Plaza East; and Valencia Garden

Units that remained Public Housing/ACC units must adhere to this Admissions and Continued Occupancy Policy in accordance with their agreement and obligation to the HOPE VI program. If an occurrence arises where noncompliance to this ACOP occurs, the duty is on the owner/property manager to provide the reason for non-compliance, i.e. exemption. Where there is a conflict in policy between an agreement and this policy, the more restrictive policy prevails.

INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and procedures. The responsibility to further nondiscrimination pertains to all areas of the PHA's public housing operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the PHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, (42 U.S.C. § 504.) and incorporate guidance from the Joint Statement of HUD and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published on January 22, 2007, in the *Federal Register.*

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, marital status, and for victims of domestic violence, dating violence, sexual assault, or stalking. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988) Executive Order 11063 Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments Act govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published on February 3, 2012, in the *Federal Register* and further clarified in Notice PIH 2014-20
- The Violence against Women Reauthorization Act of 2013 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted. When more than one civil rights law applies to a situation, the laws will be read and applied together.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

The PHA shall not discriminate because of ancestry, source of income, race, color, sex, religion, national or ethnic origin, familial status, or disability to be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the PHA housing programs (called “protected classes”).

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18. The PHA will not discriminate on the basis of an individual’s status as a victim of domestic violence, dating violence,

sexual assault or stalking.

Authority Policy

In addition to the protected classes above, California Fair Employment and Housing Act (FEHA) offers legal protection based on:

Sexual orientation: The LGBT community is protected from housing discrimination in California. [F.R. Notice 02/03/12]

Gender identity and gender expression: California's Gender Nondiscrimination Act, enacted in 2012, protects transgender and gender non-conforming people from housing and employment discrimination. [FR Notice 02/03/12]

Marital status: Whether you are single, married or widowed, you are protected under FEHA. [FR Notice 02/03/12]

Medical condition: Having any medical condition cannot disqualify you from access to housing.

Ancestry: Your family's ancestral roots cannot be considered in the housing process.

Source of income: Judgement and discrimination about where you are employed and how you make your money cannot factor into a the Authority's decision to lease you a property.

Age: People over the age of 40 are protected.

Genetic information: The Authority cannot discriminate based on information about genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family (also known as family medical history).

Arbitrary discrimination: You cannot be discriminated against for any other arbitrary reason.

The Authority will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors

- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families

The Authority must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the Authority will provide information to public housing applicant families about civil rights requirements.

Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by the Authority, the family should advise the Authority. HUD requires the Authority to make every reasonable attempt to determine whether the applicant or tenant family's assertions have merit and take any warranted corrective action.

Authority Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination must notify the Authority either orally or in writing.

The Authority will post HUD's Discrimination Complaint Website link in all of the Authority public buildings. The link to the HUD discrimination complaint website will also be included in all Authority briefing packets.

The Authority will attempt to remedy discrimination complaints made against the Authority.

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program. (24 C.F.R. § 8.)

The PHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy. (24 C.F.R. § 966.7(b).)

Authority Policy

The Authority will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the Authority, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

The Authority will display posters and other housing information and signage in locations throughout the Authority's office in such a manner as to be easily readable from a wheelchair.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is a change made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the PHA program. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), the PHA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Providing "large-print" forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a PHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the PHA's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection or nexus between the required accommodation and the individual's disability.

Authority Policy

The family should make its request in writing using a reasonable accommodation request form. However, the Authority will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

The Authority will not review Reasonable Accommodations submitted more than 30 calendar days after the household has been evicted.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this Chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is broader than the HUD definition of disability, which is used for waiting list preferences and income allowances.

Before providing an accommodation, the PHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the PHA's programs and services.

If a person's disability is obvious or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

Authority Policy

Disability is defined as any physical or mental impairment that limits one or more of their major life activities.

The Authority must obtain verification of a Request for Reasonable Accommodation from a knowledgeable professional identified by the family. If verification cannot be obtained by the

knowledgeable professional within 30 calendar days, the family must follow-up with the knowledgeable professional. Third party verification may be sent via U.S. Postal Service, e-mail, and when all other means fail, by a telephone call initiated by the Authority.

For continued consideration, the family may be required to submit a new Reasonable Accommodation Request if the information is not in the tenant file or as otherwise needed to document compliance with HUD verification requirements and will be evaluated in accordance with the policies and regulations in effect at the time of request.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

The PHA must approve a request for an accommodation if the following three conditions are met.

The request was made by or on behalf of a person with a disability.

There is a disability-related need for the accommodation.

The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the Authority's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors; such as, the overall size of the PHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Authority Policy

After a request for an accommodation is presented, the Authority will respond in writing within a reasonable time. A reasonable time for a response is 30 calendar days from receipt of the request.

If the request for an accommodation shows:

(1) No causal relationship, or nexus, between the disability and the requested accommodation;

(2) It would impose an undue financial and/or administrative burden; or

(3) It would fundamentally alter the nature of the Authority operations;

the Authority may discuss with the family whether an alternative accommodation could address the family's disability related needs.

If the Authority believes that there is no reasonable alternative to the reasonable accommodation request the Authority will deny the request and notify the family in writing of its determination. The notice will inform the family of the right to appeal the

Authority's decision through the grievance hearing process (see Chapter 14).

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the PHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services (24 C.F.R. § 8.6.)

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

Authority Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings, presentations, or in meetings with Authority staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation, having material explained orally by staff, or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings, in accordance with the LEP Plan (Appendix A).

2-II.G. PHYSICAL ACCESSIBILITY

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the ACOP, describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.

- The PHA's Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the PHA.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [(24 C.F.R. § 966.7.)

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing. (24 C.F.R.§ 966.7.)

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the PHA's grievance process. (24 C.F.R.§ 966.4(1)(3)(ii).)

When reviewing reasonable accommodation requests, the PHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to the AUTHORITY's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation. (24 C.F.R.§ 966.7.)

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

The Authority's LEP Plan is included as Appendix A of this ACOP

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual; or

Has a record of such impairment; or

Is regarded as having such impairment.

The phrase "physical or mental impairment" includes:

Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

"Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, or working.

"Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users;
- People whose alcohol use interferes with the rights of others;
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program.

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400.00 elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is more broadthan the HUD definition of disability. Many people will not qualify as a disabled person under the public housing program, yet an accommodation is needed to provide equal opportunity.

Chapter 3

ELIGIBILITY

INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the public housing program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the public housing program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
  - Meet net asset and property ownership restriction requirements.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and Authority definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the Authority to deny admission as well as the asset limitation for public housing.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members, and explains HUDs eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD (24 C.F.R. § 5.105(a)(2); 24 C.F.R, §5.403; FR Notice 02/03/12; Notice PIH 2014-20; Notice PIH 2023-27; and FR Notice 2/14/23)

The terms *family* and *household* have different meanings in the public housing program.

Family

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together. Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a tenant family. The Authority has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

Authority Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously, or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

After the family has been admitted in to the program, additions to the family will be limited to the following circumstances:

1. **Birth** of a child to a current family member.
2. **Adoption** of a child by a current family member.

3. **Court-awarded** custody of a child to a current family member.
4. **Legal guardianship** of a minor granted to a current family member.
5. As result of **marriage** by a current family member.
6. As result of a **civil union** created under any state law by a current family member.
7. As a result of a registered **domestic partnership** under any state law by a current family member.
8. As a result of a **reasonable accommodation** for current disabled family member.
9. As a result of a returning family member from **active military service**.
10. As a result of a returning and now **disabled family member**.
11. As a result of a returning **child under the age of 24**.
12. As a result of returning or placement of a **parent to an existing minor** in the family.
13. As a result of returning or placement of **elderly parents or grandparents** to be cared by current family members as certified by a medical professional.
14. As a result of returning or placement of a **foster child(ren) or foster adult(s)** if their presence would not result in a violation of this ACOP's Occupancy Standards.
15. During an add campaign wherein the Authority has established a "start" and "end" date.

The Authority will not increase the bedroom size as a result of additional household members being added to the lease.

Married couples claiming to be separated must present evidence of such and will be evaluated on a case-by-case basis. The Authority may require, but is not limited to, the following information:

- Court Filing of divorce.
- Statement from attorney preparing the divorce.
- Tax-returns with filing status.
- Notarized statements and/or Authority certification(s).
- Bank statements.

Victims of domestic violence, dating violence, sexual assault or stalking claiming to be separated from their spouse do not need to provide the above documentation if it is not safe to provide or if they do not have the document.

Household

Household is a broader term that includes additional people who, with the Authority's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup

The Authority has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance. If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance.

Authority Policy

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will retain occupancy of the unit.

If a court determines the disposition of property between members of an applicant or resident family, the Authority will abide by the court's determination. This includes cooperating with law enforcement authorities to enforce civil and criminal protection orders issued for the protection of victims, and addressing the distribution of personal property among household members in cases where a family breaks up.

In the absence of a judicial decision, or an agreement among the original family members, the Authority will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors:
(1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) any possible risks to family members as a result of domestic violence, dating violence, sexual assault, or stalking who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals. If the family break–up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in Chapter 24 of the Code of Federal Regulations, part 5, subpart L, the Authority must ensure that the victim retains assistance.

In all instances, the family must notify the property office, in writing, within 15 calendar days of the action causing the family split and request a determination of the assignment of the unit. **In no case will the Authority provide an additional unit to the family member(s) who are removed from the original unit.** The family members who are removed from the original household unit may apply for assistance on a separate application and may be entitled to full preferences, as applicable.

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

Remaining Member of a Tenant Family (24 C.F.R. § 5.403.)

The HUD definition of family includes the *remaining member of a tenant family,* which is a member of a resident family who remains in the unit when other members of the family have left the unit. (PH Occ GB, p. 26.) Household members such as live-in aides, foster children, and

foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

Authority Policy

A member of a resident family who is not on the lease and remains in the unit when other members of the family have left the unit is not considered a 'remaining member of a tenant family" by the Authority and must vacate the unit.

If the head of household moves out of a leased unit and the family members want to continue occupancy of that unit (or another Authority unit of the appropriate bedroom size), the remaining family members must identify a new head of household who will be subject to suitability and eligibility requirements. Once approved by the Client Placement Department and any outstanding debt is paid, the new head of household will sign a Authority residential lease.

If all adults abandon the minors and the only family members remaining in the unit are minors, then the minor may retain the unit only if:

1) The Authority will accept the court-appointed guardian to assume the lease provided that all eligibility and suitability criteria are met; or
2) The court-declared emancipated minor meets all the eligibility and suitability criteria; or
3) The courts disposition is to re-unite a former resident with the minor presently in the unit

Prior Debt. Any outstanding debt owed to the Authority by the former head of household will be addressed as follows:

1) If the debt cannot be collected from the former head of household (e.g., death, incarceration, hospitalization, etc.), as a party to the lease, remaining adult family members 18 years of age or older will be responsible for arrearages incurred by the former head of house;
2) The PHA will not hold remaining family members responsible for any portion of the arrearage incurred prior to the remaining member turning age 18. Example: The new head of household and only adult member of the household recently turned 18 years of age. The new head of household is not responsible for the portion of the debt owed prior to his/her 18th birthday;
3) Where a minor has left a household and then later returned and added back onto the lease as a new household member and the Head of Household passes away or moves out, the family member will be responsible for the debt owed, including the debt accrued while they were minors under a previous lease in the household. The lookback period for debt shall be consistent with the look back period for debt of a new admission as stated in chapter 3;
4) Remaining family members under age 18 years of age shall not be held responsible for the rent arrearages incurred by the former head of household. The rent arrearages by the former head of household incurred within the last three years will be placed in the debts

owed module in the Enterprise Income Verification System (EIV);

5) Except as required above, a new head of household added to the Lease will not be charged for any arrearage incurred by the former head of household;
6) If the Lease held by the new head of the household is an extension of occupancy under a prior lease(s) with the PHA, any amounts due under the prior lease(s) may be charged and collected as if the amounts were incurred under the current lease (debt follows the head of household);
7) When disputes arise between a resident and the PHA concerning an action taken by the PHA to collect a prior debt as outlined in this paragraph, residents will have the opportunity to resolve this dispute through a grievance hearing according to the PHA's Grievance Procedures. (See Chapter 14)

Any outstanding credit due to the resident will be addressed as follows:

1) First, it will be used to pay off debt owed by the tenant family. Credit will first be applied to the most current debt and continue being applied to any outstanding debt until the credit is exhausted. Once debt has been paid off, the Authority will determine whether there are any tenant caused damages to the unit and charge fees as applicable;
2) If a credit balance remains, the Authority will credit the amount to future rent payments for up to 12 months or until the credit is exhausted;
3) If a credit balance remains after the above have been addressed, the credit will be provided to the last known family member in accordance with state and local laws.

3-I.D. HEAD OF HOUSEHOLD (24 C.F.R. § 5.504(b.)

Head of household means the adult member of the family who are considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone, or in conjunction with a co-head or spouse.

Authority Policy

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local laws. A minor who is emancipated under state law may be designated as head of household.

A family member can change the Head of Household to another individual who is already on the Lease with (1) Power of Attorney; (2) Court Order; or (3) Letter from the current Head of Household's primary physician stating that the Head of Household does not have the capacity to remain Head of Household.

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both. (HUD-50058 IB, p. 13.)

Spouse means the marriage partner of the head of household.

Authority Policy

The term "spouse" does not apply to friends, roommates, or significant others who are not marriage or domestic partners. A minor who is emancipated under state law may be designated as a spouse.

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

Authority Policy

Emancipated minors under state law may be designated as a cohead.

Other adult means a domestic partner or family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults. (HUD-50058 IB, p. 14.)

3-I.F. DEPENDENTS AND MINORS (24 C.F.R. § 5.60.)

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a family member who is under 18 years of age, or a person of any age who is a person with a disability, or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults, and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

Authority Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of Authority program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Autrhority will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3-I.G. FULL-TIME STUDENT (24 C.F.R. § 5.603.)

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to determine if attendance is full-time is defined by the educational institution.

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or co-head qualifies the family for a dependent deduction; and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. FULL-TIME OF NON-PARENTAL/GUARDIAN HOUSEHOLDS

Full-time college students of non-parental/guardian households are not eligible for admission to the Housing Choice Voucher, Project-based Voucher, Public Housing and Housing Choice Voucher Rehabilitation Programs unless students meet the following eligibility standards:

1) The student must be 18 years of age or be an emancipated minor under state law;
2) The student must be income-eligible for admission.

The Housing Authority is required to verify and include the following source of income for full-time college students of non-parental/guardian household:

1) Financial support such as money, food, clothing, personal items, and entertainment. The financial support must come from an outside source such as parents or guardians in the form of "periodic and determinable allowance" or "regular contributions or gifts."

3-I.I. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY (24 C.F.R. §§ 5.100, 5.403, 945.105, and FR Notice 02/03/12.)

Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family deduction and the medical deduction as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.J. PERSONS WITH DISABILITIES AND DISABLED FAMILY (24 C.F.R. § 5.403; FR Notice 02/03/12.)

Persons with Disabilities

Under the PHA program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this Chapter. These definitions are used for a number of purposes ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA must make all aspects of the PHA's program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or the PHA's services.

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities.

Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying admission or taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this Chapter and in Chapter 13.

3-I.K. GUESTS (24 C.F.R. § 5.100.)

A *guest* is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests (24 C.F.R. § 966.4(d).). The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near PHA premises. (24 C.F.R. § 966.4(f).)

Authority Policy

A guest cannot remain in the unit longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 or more consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former Public Housing residents who have been evicted are not permitted as overnight guests.

Guests who represent the PHA unit address as their residence address, or address of record for receipt of benefits or any other purposes, will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered to be unauthorized occupants, and their presence constitutes violation of the lease.

Verification of an unauthorized occupancy can be established through the following:

1) Government issued ID’s or reports;
2) Utility Bills for the assisted unit;
3) Property sign-in logs; or

4) Other documentation or investigations

3-I.L. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the tenant family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

The term *foster child* is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g. public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster children and foster adults living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction. (24 C.F.R. § 5.603; HUD-50058 IB, pp. 13-14.)

Authority Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.M.

3-I.M. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

Definitions of Temporarily and Permanently Absent

Authority Policy

An individual who is or is expected to be absent from the public housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. An individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

Authority Policy

A dormitory-style living arrangement is not considered as establishing a separate household.

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information

becomes available to the Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care (24 C.F.R. § 5.403.)

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

Authority Policy

If a child has been placed in foster care, the Authority will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member. A foster child or foster adult will not be included in the HCV application or renewal of the foster family because they are considered part of their biological/relatives family unit even while temporarily in foster care.

Absent Head, Spouse, or Co-head

Authority Policy

An employed head, spouse, or co-head absent from the unit more than 180 consecutive calendar days due to employment will continue to be considered a family member.

Deployment of Military Personnel

A head or co-head who is absent from the unit due to military service for more than 180 calendar days may be removed from the household composition and added back to the household once their military service is completed as long as there is at least one remaining family member in the assisted unit. The military personnel or any member of their household must inform the property office within 15 calendar days of their return to the unit.

The PHA will also allow a suitable guardian to move into the assisted unit on a temporary basis to care for any dependents that the military person leaves in the unit. Income of the guardian temporarily living in the unit solely for this purpose is not to be counted in determining family income and the amount of rent the family pays based on family income. The temporary suitable guardian to assist with the dependent care must move out within 15 calendar days of the military personnel returning home. Members of the military family cannot be absent for more than 180 consecutive calendar days.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

Authority Policy

The Authority will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the PHA will consider, any additional documentation or evidence.

Return of Permanently Absent Family Members

Authority Policy

The family must request Authority approval for the return of any adult family members that the Authority has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this Chapter.

Permanently absent family members will be removed from the lease and family composition. At the discretion of the Area Manager, the family must provide third party

verification such as a receipt from the U.S. Post Office of a forwarded mailing, utility bill, lease, etc.

3-I.N. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not otherwise be living in the unit except to provide the necessary supportive services. (24 C.F.R. § 5.403.)

The PHA must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 C.F.R. § 8 to make the program accessible and usable by the family member with disabilities.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family. (24 C.F.R. § 5.609(c)(5).). Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a family and would have no protections under VAWA.

Authority Policy

A family's request for a live-in aide must be made in writing. The Authority will verify the need for a live-in aide with a reliable, knowledgeable professional provided by the family, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request—subject to Authority verification—at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care; and (2) would not be living in the unit except to provide the necessary supportive services.

The Authority has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if: (24 C.F.R. § 966.4(d)(3)(i).)

1) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

2) The person commits drug-related criminal activity or violent criminal activity; or

3) The person currently owes rent or other amounts to the Authority or to another PHA in connection with Housing Choice Voucher Program or Conventional Public Housing Program under the 1937 Act and refuses to enter into a repayment agreement with another PHA or pay the entire debt with the Authority.

The Authority will notify the family of its decision in writing within 30 calendar days of receiving a request for a live-in aide. The 30 calendar days begins from the date that the completed live-in aid packet was submitted to the Authority. The completed packet includes all required documentation related to the request. Once added as a live-in aide, the person may not be changed to a family member. A live-in aide has no rights to the unit. An existing family member cannot become a live-in-aide.

3-I.O. CAREGIVER

A family may request a caregiver. The form shall be available at the property office and shall be submitted at the same property office where the resident resides. A caregiver has free access to the unit but is not a live-in-aide and shall follow the overnight policy for guests outlined in section 3.I.J above. A caregiver has no rights to the unit.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to establish income limits that determine the income eligibility of

applicants for HUD's assisted housing programs, including the PHA program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

Types of Low-Income Families (24 C.F.R. § 5.603(b).)

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility (24 C.F.R. § 960.201 and Notice PIH 2023-27)

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, the annual income of an applicant must be within the *low-income* limit. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

Authority Policy

The Authority will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from the Authority's waiting list.

HUD permits the PHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

Authority Policy-HOPE SF

Families who are residents of the HOPE SF developments will be subject to the Relocation Plan for their particular development. All families of HOPE SF sites must be in Good Standing in order to move into the revitalized units. Good Standing requires that the Authority did not file a Summons and Complaint against any member of the household or been evicted (Board Resolution #5390). Notwithstanding the above, a family will be eligible to move if the family has an active Unlawful Detainer action against them, and they are in a repayment agreement and current on the repayment agreement.

Using Income Limits for Targeting (24 C.F.R. § 960.202(b).)

At least 75 percent of the families admitted from the PHA waiting list to the public housing

program during a PHA fiscal year must be *extremely low-income* families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts, but has been unable to attract an adequate number of qualified extremely low-income families.

If admissions of extremely low-income families to the PHA's housing choice voucher program during a PHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the PHA's public housing basic targeting requirement for the same fiscal year.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS (24 C.F.R. § 5(E).)

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration (24 C.F.R. § 5.508.)

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals, and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

Authority Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless the Authority receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens and VAWA Self-Petitioners

In addition to providing a signed declaration, those declaring eligible noncitizen status or VAWA self-petitioner must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen or VAWA self-petitioner status varies depending upon factors such as the, the

conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS. (Public Law 106-504.)

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited. (24 C.F.R. § 5.522.) This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated and that they may request a grievance hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of grievance hearing procedures.

Ineligible Families **(24 C.F.R. §§ 5.514(d), 5.514 (e), 5.514 (f).)**

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member. (24 C.F.R. § 5.512(b).) Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible. (24 C.F.R. § 5.512(a).) Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the PHA in accordance with program requirements. (24 C.F.R. 5.512(a).)

Authority Policy

The Authority will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When the Authority determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 30 calendar days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an

appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal review with the Authority. The informal review with the Authority may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal review process.

Informal Review procedures are contained in Chapter 14.

Time Frame for Determination of Citizenship Status (24 C.F.R. § 5.508(g).)

For new occupants joining the resident family the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 calendar days. (24 C.F.R. § 5.508(h).)

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

Authority Policy

The Authority will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS (24 C.F.R. §§ 5.216, 5.218; Notice PIH 2012-10.)

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six (6) has been added to an applicant family within the six (6) months prior to program admission, an otherwise eligible

family may be admitted to the program and must disclose and document the child's SSN within 90 calendar days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, or has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN, must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 years of age or older, as of January 31, 2010, whose determination of eligibility began before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in Chapter 24 of the Code of Federal Regulation Section 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION (24 C.F.R. § 5.230.)

HUD requires each adult family member, and the head of household, spouse, and co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program. (24 C.F.R. § 960.259(a) and (b) and 24 CFR 5.232(a)).

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)].

Authority Policy

The Authority has established a policy that the family's revocation of consent to allow the Authority to access records from financial institutions will result in denial of admission.

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II must be denied admission. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA. This part covers the following topics:

- Required denial of admission
- The asset limitation in public housing
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, or stalking
- Notice of eligibility or denial

3-III.B. DENIAL OF ADMISSION (24 C.F.R. § 960.204.)

PHAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the PHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to the peaceful enjoyment of the premises by other residents.

Where the statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the PHA may choose to continue that prohibition for a longer period of time. (24 C.F.R. § 960.203(c)(3)(ii).).

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing within the last three (3) years for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

  Authority Policy

  The Authority will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past three (3) years for drug-related criminal activity, if the Authority is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the Authority, or the circumstances leading to the eviction no longer exist (for example, person who committed the crime has died or is in prison).

- The PHA determines that any household member is currently engaged in the use of illegal

drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act. (21 U.S.C. §802.)

Authority Policy

Currently engaged in is defined as any use of illegal drugs during the previous six months.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to the peaceful enjoyment of the premises by other residents.

  Authority Policy

  In determining reasonable cause, the Authority will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or alcohol abuse. A record of arrests will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. An arrest must be substantiated by a supporting document of criminal activity. Arrest records or police reports will not be used as the sole basis for denying admission. A conviction will be given more weight than an arrest. The Authority will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member who has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member who is subject to a lifetime registration requirement under a state sex offender registration program.

Criminal Activity (24 C.F.R. § 960.203(c).)

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

The PHA is responsible for screening family behavior and suitability for tenancy. In doing so, the PHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

Authority Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past three (3) years, the family will be denied admission.

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage. (24 C.F.R. § 5.100.).

Illegal possession and/or use of a firearm and/or other felonious or misdemeanor activities.

Criminal activity that may threaten the health, safety, or welfare of other tenants. (24 C.F.R. § 960.203(c)(3).).

Criminal activity that may threaten the health or safety of Authority staff, contractors, subcontractors, or agents.

Immediate vicinity is defined by a quarter-mer radius of the premises.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, child molestation or child abuse.

Convicted of arson.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three (3) years. A conviction for such activity will be given more weight than an arrest or an eviction. A record of arrests will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

In making its decision to deny assistance, the Authority will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the Authority may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior (24 C.F.R. §§ 960.203(c) §§ 960.203(d); PH Occ GB, p. 48.)

HUD authorizes the PHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, the PHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, the PHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

Per the alternative requirements listed in the *Federal Register* notice dated December 29, 2014, PHAs are no longer permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [FR Notice 12/29/14].

Authority Policy

The Authority will deny admission to an applicant family if the Authority determines that the family:

The family does not provide information that the Authority or HUD determines is necessary in the administration of the program.

Any PHA has ever terminated assistance under the program for any member of

the family.

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three (3) years which may adversely affect the health, safety, or welfare of other tenants.

Has a pattern of eviction from housing or termination from residential programs within the past three (3) years (considering relevant circumstances).

Owes rent or other amounts to the Authority within the last three (3) years or any other PHA or owner in connection with any assisted housing program, including breach of the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

The family does not provide complete and true information to the Authority; Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

Has engaged in or threatened violent or abusive behavior toward Authority personnel.

Abusive or violent behavior towards Authority personnel includes verbal abuse, physical abuse, or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate, may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, the Authority will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the Authority may, on a case-by-case basis, decide not to deny admission.

3-III.C. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member. (24 C.F.R. § 5.903.)

The PHA may not pass along to the applicant the costs of a criminal records check. (24 C.F.R. § 960.204(d).)

Authority Policy

The Authority will perform criminal background checks through third party services. The Authority may use the criminal records system of the City and County of San Francisco, the State of California, the National Crime Information Center (NCIC), and other states and/or municipalities as well as local law enforcement to check for criminal history for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the Authority will request a fingerprint card and will request information from the NCIC or the Authority may obtain the information for a similar agency.

Fingerprint data results are to be accessed only by individuals with appropriate clearance, access approval, or in a clearly identified need-to-know situation. The user of said information is to practice extreme discipline in handling and disclosing only the information necessary to execute the assignment. Rank, title and/or position do not qualify individuals as having "need-to-know" status.

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided. (24 C.F.R. § 960.204(a)(4).)

Authority Policy

The Authority will ask whether the applicant or any member of the applicant's household is subject to a lifetime registered sex offender registration requirement in any state. (Notice PIH 2012-28.)

Additionally, the Authority will ask whether the applicant, or any member of the applicant's family, is subject to a lifetime registered sex offender registration requirement in any state. (Notice PIH 2012-28.)

Should the Authority's screening process reveal that an applicant's family member includes an individual subject to a state's lifetime registered sex offender registration, the Authority must offer the family the opportunity to remove the ineligible member from the family composition. If the family is unwilling to remove that individual from the family composition within 90 calendar days of the Authority's request, the Authority must deny admission to the family. (PIH Notice 2012-28.).

Where the Authority learns that a lifetime registered sex offender was admitted after June 25, 2001, the Authority must immediately pursue termination of assistance. (PIH Notice 2012-28.)

If the PHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission (24 C.F.R. §§ 5.903(f), 5.905(d).)

Obtaining Information from Drug Treatment Facilities (24 C.F.R. § 960.205.)

HUD authorizes PHAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the PHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the PHA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug during the previous 12 months;

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the PHA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the PHA for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

Authority Policy

The PHA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the PHA has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant (24 C.F.R. § 960.203(c).)

The PHA is responsible for the screening and selection of families to occupy public housing units. The PHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

Authority Policy

The Authority will consider the family's history with respect to the following factors:

1) Payment of rent and utilities;
2) Caring for a unit and premises;
3) Respecting the rights of other residents to the peaceful enjoyment of their housing;

4) Criminal activity that is a threat to the health, safety, or property of others;
5) Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C;
6) Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability (PH Occ GB, pp. 47-56.)

PHAs have a variety of resources available to them for determination of the suitability of applicants. Generally, PHAs should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

Authority Policy

In order to determine the suitability of applicants the Authority will examine applicant history for the past five years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

PHA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHA's and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history the Authority will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide the AUTHORITY with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from the Authority, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

PHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past three (3) years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. A record of arrests will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying activity.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

3-III.D. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

Authority Policy

The Authority will use the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

The Authority will consider the following as a mitigating circumstance:

Evidence of rehabilitation including but not limited to satisfying parole/probation, receiving education/training, participating in alcohol/drug treatment programs, and letters of recommendation

Evidence the applicant family's participation in social services or other appropriate counseling service programs and the availability of such programs.

Consideration of Circumstances (24 C.F.R. § 960.203(c) (3) and (d).)

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event the PHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, PHAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

Authority Policy

The Authority will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property;

The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act;

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault, or stalking;

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future;

While a record of arrest(s) will not be used as the sole basis for denial, an arrest may trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the Authority may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The Authority may also consider:

Any statements made by witnesses or the applicant not included in the police report;

Whether criminal charges were filed;

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; or

Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

The Authority will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application

The PHA may permit the family to exclude the culpable family members as a condition of eligibility. (24 C.F.R. § 960.203(c)(3)(i).)

Authority Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon PHA request.

Reasonable Accommodation (PH Occ GB, pp. 58-60.)

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with Chapter 24 of the Code of Federal Regulations, Part 8. See Chapter 2 for a discussion of reasonable accommodation.

3-III.E. NOTICE OF ELIGIBILITY OR DENIAL

The PHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a PHA uses a criminal record or sex offender registration information obtained under Chapter 24 of the Code of Federal Regulations Part 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record. (24 C.F.R.§ 5.903(f) and 5.905(d).)

Authority Policy

The family will be notified of a decision to deny assistance in writing within 30 calendar days of the determination.

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the Authority will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 15 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the Authority to dispute the information within that 15calendar day period, the Authority will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process. (See Chapter 14)

Notice requirements related of the proposed denial and provide a copy of the record to the applicant and to the subject of the record.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, or stalking are contained in Section 3-III.F.

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The Violence against Women and Reauthorization Act of 2013 (VAWA) and the HUD regulation prohibit PHAs from denying admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. (24 C.F.R. 5.2005(b).)

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA 2013 expanded notification requirements include the obligation for PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (from HUD-5380) and a domestic certification form (HUD-5382) at the time the applicant is denied.

Authority Policy

When the Authority makes a determination to deny admission to an applicant family, the Authority will include in its notice of denial:

A statement of the protection against denial provided by VAWA; and

A description of Authority confidentiality requirements.

A request that an applicant wishing to claim this protection submit to the Authority documentation meeting the specifications below with her or his request for an informal review (see section 14-I.B);

VAWA 2013 requires that the Authority provide HUD form 5382e of occupancy rights under VAWA to a voucher applicant upon denial of admission, and termination of assistance. This notice must be translated in accordance with Executive Order 13166 and HUD guidelines.

Documentation

Victim Documentation (24 C.F.R. § 5.2007.)

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking may be required to provide documentation demonstrating the connection between the abuse and the unfavorable history. The documentation may consist of any of the following:

1) HUD Form 3283 or

2) A document:

   a) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:

   b) Signed by the applicant or tenant; and

   c) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

3) A record of a Federal, State, tribal, territorial or local law enforcement agency (may include a police report), court, or administrative agency; or

4) At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

Time Frame for Submitting Documentation

Authority Policy

An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, and who is requested by Authority, or a manager to provide verification, must provide such verification within 14 business days after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action. (42 U.S.C. § 1437f (e)(2)(A); 42 U.S.C. § 1437d(u)(2)(A).)

The applicant must submit the required documentation within the time frame provided to the applicant by the Authority or must request an extension in writing. If the applicant so requests, the Authority will grant an extension of 15 calendar days or longer in special circumstances as reviewed by the Authority and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If after reviewing the documentation provided by the applicant, the Authority determines that the family is eligible for assistance, no informal hearing will be scheduled, and the Authority will proceed with admission of the applicant family.

Conflicting Certification

If the PHA receives documentation with conflicting information, the PHA may require an applicant or tenant to submit any of the above mentioned third-party documentation. (42 U.S.C. section 14043e-11(c)(7).)

Confidentiality Requirements (42 U.S.C. § 14043e-11(c)(4) (p. 3-39).)

All information provided to the PHA regarding domestic violence, dating violence, sexual assault or

stalking, including the fact that an individual is a victim of such abuse, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

Disclosure may be used in an eviction procedure if it is related to whether the incident or incidents in question qualify as a serious or repeated violation of the lease or criminal activity directly relating to domestic violence, or stalking; disclosure is otherwise required by law. (42 U.S.C. § 14043e-11(c)(4).)

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed. (See Chapter 13).

Perpetrator Documentation

Authority Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

1) A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit;

2) Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

3-III.G. ADD HOUSEHOLD/FAMILY

A household that has a pending add request within 30 calendar days prior to the sole household members death or conversion from one program to another (e.g., RAD), will not be added to the household. The add request must have been processed and approved in order for the add applicant(s) to remain in the unit. An individual whose add request is denied may request an informal review within 15 calendar days of the date of the denial.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities (24 C.F.R. § 5.403.)

The term *person with disabilities* means a person who has any of the following types of conditions.

Has a disability, as defined in Chapter 42 of the United States Code, Section 423(d)(1)(A), which reads:

> Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months
>
> In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C.§ 15002(8)), which defines developmental disability in functional terms as follows:

(A) **IN GENERAL** – The term *developmental disability* means a severe, chronic disability of an individual that:

(i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) is manifested before the individual attains 22 years of age;

(iii) is likely to continue indefinitely;

(iv) results in substantial functional limitations in three (3) or more of the following areas of major life activity: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, (7) economic self-sufficiency; and

(v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) **INFANTS AND YOUNG CHILDREN** – An individual from birth to age nine (9), inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the Acquired Immune Deficiency Syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps (24 C.F.R. § 8.3.)

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) **Physical or mental impairment includes**:

   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:

   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation

   (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

(c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in its Admissions and Continued Occupancy Policy ACOP and its annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment.

HUD regulations require that the PHA comply with all equal opportunity requirements and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13.). Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and Authority policies for accepting applications, managing the waiting list and selecting families from the waiting list. The Authority's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the Authority's Tenant Selection and Assignment Plan TSAP.

The policies outlined in this chapter are organized into three sections, as follows:

> Part I: The Application Process. This part provides an overview of the application process and discusses how applicants can obtain and submit applications. It also specifies how the Authority will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the Authority's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the Authority will use to keep the waiting list current.
>
> Part III: Tenant Selection. This part describes the policies that guide the Authority in selecting families from the waiting list as units become available. It also specifies how in-

person interviews will be used to ensure that the Authority has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the PHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4b)2)ii), 24 CFR 960.202a)2)iv), and PH Occ GB, p. 68.). HUD permits the PHA to determine the format and content of its applications, as well as how such applications will be made available to interested families and how applications will be accepted by the PHA. However, the PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application [Notice PIH 2009-36.). The PHA shall notify applicants of their right to include as part of their application the name, address, telephone number and other relevant information of a family member, friend, or social, health, advocacy or other organization.

Authority Policy

When the waiting list is open, applications for housing will be accepted and entered into the Authority database, by date and time of receipt.

When it is expected that a family will be selected from the waiting list within 60 calendar days of the date of application, the Authority will send the family a Notice requesting an initial application appointment to determine eligibility. The Notice will include the date and time of the application appointment. If the family fails to attend the application meeting, the applicant will be removed from the waiting list.

At application, the family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms, when the waiting list is open, on the Authority website (www.sfha.org). As a reasonable accommodation for persons with disabilities, disabled families may also request – by telephone or by mail – that an application form be mailed to the family assistance with the application.

Completed applications must be completed online. Applications must be filled out completely in order to be accepted by the Authority for processing. If an application is incomplete, the Authority will notify the family of the additional information required.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard PHA application process.

Disabled Populations [24 CFR 8; PH Occ GB, p. 68.)

The PHA must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible or the PHA must provide an alternate approach that provides equal access to the program. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless the PHA determines the family to be ineligible. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 960.208a); PH Occ GB, p. 41.). No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

Authority Policy

If the Authority can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list(s). Where a family is determined to be ineligible, the Authority will send written notification of the ineligibility determination within 120 calendar days of receiving a complete application or the closing date of the waiting list(s), whichever comes later. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so. (see Chapter 14).

Eligible for Placement on the Waiting List

Authority Policy

Families will be added and placed on the Authority's waiting list utilizing a random selection process to be completed after the waiting list has been closed. Once each application has been randomly assigned a number, the applications will be placed on the waiting list in order of the assigned numbers following any family that is already been assigned a number and on the waiting list.

The Authority will accept all applications received during the opening of the waiting list, but reserves the right to limit the number of applications actually placed on the waiting list.

The Authority will send written notification of the placement or non-placement of the application on the waiting list within 120 calendar days of receiving the application or the closing of the waiting list, whichever comes later.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

The Authority will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to Authority standards and local codes). However, in these cases, the family must agree not to request a transfer for five years after admission, unless they have a change in family size or composition.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the Authority will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The PHA must have policies regarding the type of waiting list it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the PHA may structure its waiting list and how families must be treated if they apply for public housing at a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

The PHA's public housing waiting list must be organized in such a manner to allow the PHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

Authority Policy

The waiting list will contain the following information for each applicant listed:

- Applicant name;
- Family unit size;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household;
- Annual (gross) family income;
- Targeted program qualifications.

The PHA may adopt one community-wide waiting list or site-based waiting lists. The PHA must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

Authority Policy

The Authority will maintain one single community-wide waiting list for its developments. Within the list, the Authority will designate subparts to easily identify who should be offered the next available unit i.e. mixed populations, general occupancy, unit size, and accessible units).

Pursuant to existing Internal Revenue Service statutes (IRS), California Tax Credit Allocation Committee (CTAC) requirements, and subject to the review and approval of the Authority, each tax-credit HOPE VI development and designated HOPE SF, a site may implement its own marketing plan, accept and process applications based on its local preferences, manage its own site-based waiting lists and on-site transfer policy. In so doing, all applicable federal laws, executed contract requirements, and agreements, and other non-conflicting local policies shall be fully complied.

The Authority may merge the HCV waiting list with the Public Housing waiting lists) in the event that the HCV waiting list is exhausted.

In the event that the waiting list does not have a sufficient number of names to support filling vacancies, the Authority may also utilize the Public Housing waiting list to augment the HCV waiting lists until such time that the list is replenished.

In the event that a waiting list does not have a sufficient number of names to support filling vacancies, the PHA may utilize the Public Housing waiting list to augment the PBV/RAD/HOPE SF waiting lists until such time that the list is replenished.

HUD requires that public housing applicants must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the PHA operates if (1) the other programs' waiting lists are open, and (2) the family is qualified for the other program [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, that PHA's maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

Authority Policy

The Authority will not merge the public housing waiting list lot with the waiting list for any other program the Authority operates.

Site Based Waiting Lists

The San Francisco Housing Authority will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance as part of a Rental Assistance Demonstration ("RAD") conversion. As projects convert to Project Based Voucher ("PBV") assistance under RAD, as site-based waiting list will be implemented.

More information on Site-Based Waitlist is located in the Housing Choice Voucher Administrative Plan.

4-II.C. SITE BASED WAITING LISTS

If the PHA established site-based waiting lists both current and new applicants may choose which site-based waiting list they wish to be placed on and may submit an application for as many sites as where they would choose to live.

When there are insufficient applicants on a site-based waiting list the PHA will contact applicants on all other waiting lists who may qualify for the type of housing with insufficient applicants. "Insufficient applicants" on a list will be defined as not enough families to fill vacancies for at least three (3) months based on anticipated turnover at the development.

Every reasonable action will be taken by the PHA to assure that applicants can make informed choices regarding the development(s) in which they wish to reside. The PHA will disclose information to applicants regarding the location of available sites. The PHA will also include basic information relative to amenities such as day care, security, transportation, training programs, and an estimate of the period of time that the applicant will likely have to wait to be admitted to units of different types.

Monitoring Site-Based Waiting Lists

The system of site-based waiting lists will be carefully monitored to assure that civil rights and fair housing are affirmatively furthered. In order to monitor the site-based waiting lists the PHA will:

- Monitor its system of site-based waiting lists at least biannually to assure that racial steering does not occur. If the PHA's biannual analysis of its site-based waiting list indicates that a pattern of racial steering is or may be occurring, the PHA will take corrective action.
- At least every five years use independent testers to ensure that applicants are not treated differently based upon race or ethnicity and that no patterns of discrimination exist.
- Assess changes in racial, ethnic or disability-related resident composition at each PHA site that has occurred during the implementation of the site-based waiting lists. Each year the PHA will make this assessment based on PIH Information Center (PIC) data that has been confirmed to be complete and accurate by an independent public auditor.

4-II.D OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

The PHA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. The PHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

Authority Policy

The Authority will close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants. Where the Authority has particular preferences or other criteria that require a specific category of family, the Authority may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. The PHA should publish a notice announcing the opening of the waiting list in local newspapers of general circulation, minority media, and other suitable media outlets. Such notice must comply with HUD fair housing requirements. The PHA should specify who may apply, and where and when applications will be received.

Authority Policy

The Authority will announce the reopening of the waiting list at least 15 calendar days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The Authority will give public notice by publishing the relevant information on the Authority website. In addition the Authority may also provide public notice through suitable media outlets including, but not limited to:

- Publishing the relevant information on the Authority website
- Publishing a notice in The San Francisco Chronicle
- Publishing a notice in one or more minority-owned and foreign language newspapers
- Posting in the lobby of the Authority office at 1815 Egbert Avenue, San Francisco, CA

In addition, the Authority may also provide public notice by doing the following:

- Radio and television stations in order to inform the visually impaired

- Notices circulated for posting at social service agencies, community centers and the Bay Area public housing agencies
- Posting at the RAD property and the offices of the agencies managing and providing services for the property

4-II.E. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)].)

The PHA should conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the PHA is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires the PHA to admit a specified percentage of extremely low-income families, the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low-income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

Authority Policy

The Authority will monitor the characteristics of the population being served and the characteristics of the population as a whole in the Authority's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.F. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

Authority Policy

While the family is on the waiting list, the family must inform the Authority, 15 calendar days of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing to the Authority. The Authority may accept Applicant Portal updates.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

4-II.G. UPDATING THE WAITING LIST

HUD requires the PHA to establish policies that describe the circumstances under which applicants will be removed from the waiting list [24 CFR 960.202(a)(2)(iv)].

Purging the Waiting List

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the PHA's request for information or updates because of the family member's disability, the PHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ.
GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

Authority Policy

The waiting list will be updated as needed to ensure that all applicant information is current and timely.

To update the waiting list, the Authority will send an update request via first class mail or e- mail (if an e-mail address is provided to the Authority) to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address, residential or e-mail address that the Authority has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting lists) without further notice.

The family's response must be in writing to the Authority and must be postmarked by the deadline stated on the update request form.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from all waiting list without further notice. (Applicable to the waitlist update notice only.)

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 calendar days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

The family may request to be reinstated to the waiting list within one year of the withdraw date in response to a reasonable accommodation request or if the lack of response by the applicant was a result of Authority error.

Removal from the Waiting List

Authority Policy

The Authority will remove an applicant from the waiting list upon request by the applicant family. In such cases no informal review is required.

If at any time an applicant family is on the waiting list, the Authority determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the Authority has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the Authority's decision (see Chapter 14) [24 CFR 960.208(a)].

Upon being provided a unit from one waitlist and accepting, applicant family will be removed from all other waitlists.

PART III: TENANT SELECTION

4-III.A. OVERVIEW

The PHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The PHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The PHA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 960.206(e)(2)]. The PHA's policies must be posted any place where the PHA receives applications. The PHA must provide a copy of its tenant selection policies upon request to any applicant or tenant. The PHA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

Authority Policy

When an applicant or resident family requests a copy of the Authority's tenant selection policies, the Authority will provide copies to them free of charge.

4-III.B. SELECTION METHOD

The PHA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR 982.202(d)].

Local Preferences [24 CFR 982.207; HCV p. 4-16]

The PHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

Authority Policy

The Authority adopted the following local preferences during the Annual Plan Process in

2016. All preferences must be verified at the time of intake. If an applicant is unable to provide verification of their preference at the time of intake, the applicant will be placed back on the waiting list. All preferences are mutually exclusive except for the Absolute Veteran/Surviving Spouse of Veteran, which may be combined with any other preference. Applicants with an equal preference value will be selected based on the position number.

An applicant family includes, but not limited to: 1) family with or without children; 2) an elderly family; 3) a near-elderly family; 4) a disabled family; 5) a displaced family; 6) the remaining member of a tenant family and 7) a single person who is not elderly or displaced person with disabilities, or the remaining member of a tenant family. [24 CFR 5.403.).

- **Veteran /Surviving Spouse of Veteran (1 Point)**
- **Involuntary Displacement from residence in San Francisco 5 points)**

Veteran/Surviving Spouse of Veteran

California Health and Safety Code section 34322.2(b) states that "[p]priority shall be given with each preference category to families of veterans and servicemen." A veteran is someone who is recognized by a local, state or federal government agency as a veteran, and they receive or qualify for veteran's benefits. Therefore, veterans and families of veterans shall receive preference within each of PHA's preference categories.

Preferences

The following preferences are mutually exclusive. An applicant family is limited to selecting one of the following:

Involuntary Displacement *(5 points)*

An applicant is or will be involuntarily displaced if the applicant has vacated or will have to vacate his or her housing unit as a result of one or more of the following actions:

- *Natural Disaster*: A disaster such as a fire, flood or earthquake that resulted in the inhabitability of the applicant's unit.
- *Domestic Violence, Dating Violence, Sexual Assault, and Stalking*: An applicant, or the affiliated individual of an applicant, who has vacated due to actual or threatened physical violence directed against the applicant or one or more members of the applicant's family by a spouse or other household member, who lives in housing with an individual who engages in such violence.
- *Victim of Hate Crime/Violent Crime*: Actual or threatened physical violence or intimidation directed against an applicant and his/her property that is based on the person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, that is documented by law enforcement agency stating that the applicant is in an immediate life-threatening situation and that an

immediate transfer would minimize the problem.

- *Government Action*: an action of a government agency related to code enforcement or public improvement or development.
  Landlord Action: an action by a housing owner that results in an applicant's having to vacate his or her unit, where the reason for the owner's action was beyond the applicant's ability to control or prevent, and despite the applicant having met all previously imposed conditions of occupancy, and the action is other than a rent increase.

Prohibition of Preference if Applicant was evicted for drug-related and/or criminal activity.

The Authority will not give any preference to an applicant if any member of the family is a person who was evicted within the three years prior to applying because of drug-related criminal activity from any assisted housing program. The Authority may consider granting a preference in any of the following cases:

- If the Authority determines that the evicted person has successfully completed a rehabilitation program approved by the Authority; or
- If the Authority determines that the evicted person clearly did not participate in or knew about the drug related criminal activity; or
- If the Authority determines that the evicted person no longer participates in any drug-related criminal activity

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during the PHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, the PHA may skip non-ELI families on the waiting list in order to select an ELI family.

If the PHA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the PHA's HCV program during a fiscal year that exceed the 75 percent minimum target requirement for the voucher program, shall be credited against the PHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the PHA fiscal year; (2) ten percent of waiting list admissions to the PHA's housing choice voucher program during the PHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

Authority Policy

The Authority will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the PHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, co-head, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403]. The PHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The PHA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the PHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The PHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families [24 CFR 945]

The PHA may designate projects or portions of a public housing project specifically for elderly or disabled families. The PHA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the PHA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the PHA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or co-head is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the PHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse effect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept

occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

Authority Policy

The Authority has designated senior and/or disabled housing at this time.

Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]

The PHA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the PHA's deconcentration policies must be in included in its annual plan [24 CFR 903.7(b)].

The PHA's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: (1) Developments operated by the PHA with fewer than 100 public housing units; (2) Mixed population or developments designated specifically for elderly or disabled families; (3) Developments operated by the PHA with only one general occupancy development; (4) developments approved for demolition or for conversion to tenant-based public housing; and (5) developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

Steps for Implementation [24 CFR 903.2(c)(1)]

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the PHA must comply with the following steps:

Step 1. The PHA will determine the average income of all families residing in all the PHA's covered developments. The PHA may use the median income, instead of average income, provided that the PHA includes a written explanation in its annual plan justifying the use of median income.

Step 2. The PHA will determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, the PHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

Step 3. The PHA will then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. However, the upper limit must never be less than the

income at which a family would be defined as an extremely low-income family (30% of median income).

Step 4. The PHA with covered developments having average incomes outside the EIR will then determine whether or not these developments are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, the PHA will include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

A family has the sole discretion whether to accept an offer of a unit made under the AUTHORITY's deconcentration policy. The PHA will not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the PHA's deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, the PHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

Order of Selection [24 CFR 960.206(e)]

The PHA system of preferences may select families either according to the date and time of application or by a random selection process.

Authority Policy

Families will be selected from the waiting list based on preference(s). Among applicants with the same preference, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the Authority.

When selecting applicants from the waiting list the Authority will match the characteristics of the available unit (unit size, accessibility features, unit type/designation) to the applicants on the waiting lists. The Authority will offer the unit to the highest-ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and Authority policy.

Public Housing

Preference	Points
Veteran/Surviving Spouse (add 1 point to the highest eligible preference category)	*(+1)*
Involuntarily Displaced from San Francisco residence	5

Note: Applicants with same point value will be pulled according to date and time.
The above preferences are specifically described in the Local Preference Section of this policy

Public Housing Resident Transfer List Preferences Order of Moves

Reasonable Accommodations	Exhaust list
Emergency Transfers Including victims of DV)	First 5
Waiting List in Order of Preference	Next 5

Note: The Authority has the discretion to move non-emergency, administrative transfers as deemed necessary.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the PHA must notify the family.

Authority Policy

The Authority will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview.

Documents that must be provided at the interview to document eligibility for a preference, if applicable. Families who reported a preference must verify the preference. Verification methods include verification of family status from

homeless service agencies and verification of family status from non-profit agencies

All documents that must be provided at the interview, including information about what constitutes acceptable documentation.

If the appointment notice is returned by the post office with no forwarding address, the applicant will be withdrawn from the waitlist for which the notice was sent. A notice of withdrawal (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address. The family may request an informal review resulting from the removal of the waiting list(s). If the notice is returned by the post office with a forwarding address, the notice will be re- sent to the address indicated. The family may request to be reinstated to the waiting list(s) within one year of the withdraw date in response to a reasonable accommodation request, or if the lack of response by the applicant was a result of Authority error

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the SF [Notice PIH 2012-10.).

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a).).

Authority Policy

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head shall attend the interview on behalf of the family. Verification of adult members of the family will not commence until all release forms are submitted to the Authority. The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the Authority will allow the family to retain its place on the waiting list for ninety (90) calendar days. If not all household members have disclosed their SSNs at the next time a unit becomes available, the Authority will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference see Chapter 7). If the family is verified as eligible for the preference, the Authority will proceed with the interview. If the Authority determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the Authority will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 15 calendar days of the interview Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial see Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For Limited English Proficient (LEP) applicants, the Authority will provide translation services in accordance with the Authority's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the Authority at least 24 hours in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the Authority will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without Authority approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents the Authority from making an eligibility determination; therefore, the Authority will not offer an informal review.

4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208.)

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including PHA suitability standards, the PHA must make a final determination of eligibility see (Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208b).).

Authority Policy

The Authority will notify a family in writing of their eligibility within 30 calendar days.

The PHA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal review on such determination [24 CFR 960.208(a).).

Authority Policy

If the Authority determines that the family is ineligible, the Authority will send written notification of the ineligibility determination within 30 calendar days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review see Chapter 14).

If the PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. (*See* Section 3-III.G for the Authority's policy regarding such circumstances).

Upon making an eligibility determination, the PHA must provide the family a notice of VAWA rights as well as HUD VAWA self-certification form (form HUD-50056) in accordance with the Violence against Women Act of 2013, and as outline in 16-VII.C. The notice and self- certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family is notified of its eligibility, or (2) when a family is notified of its ineligibility.

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The PHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The PHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains the PHA's standards for determining the appropriate unit size for families of different sizes, compositions, and types.

Part II: Unit Offers. This part contains the PHA's policies for making unit offers and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by the PHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the PHA will use to determine the size unit for which a family qualifies and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms. (24 C.F.R. § 960.206(c).)

HUD does not specify the number of persons who may live in public housing units of various sizes. PHAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children. (PH Occ GB, p. 62.)

Although the PHA does determine the size of unit the family qualifies for under the occupancy standards, the PHA does not determine who shares a bedroom/sleeping room.

The PHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

Authority Policy

The Authority will use the same occupancy standards for each of its

developments. The Authority's occupancy standards are as follows:

The Authority will assign one bedroom for each two persons within the household, except in the following circumstances:

- One (1) bedroom will be provided for the head-of-household and spouse or domestic partner or co-head and an additional bedroom for each two (2) persons within the household;
- Persons of different generations will not be required to share a bedroom;
- Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family;
- Single person families will be allocated a zero or one bedroom;

- Foster children will be included in determining unit size;
- Children of the opposite sex, other than those under five (5) years of age, may not be required to occupy the same bedroom or living/sleeping room. Children of opposite gender identification will be identified for subsidy/room determinations with the gender identified by the Head of Household.

The Authority will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	2
1	1	4
2	2	6
3	3	8
4	4-6	10
5	6-8	12
6	8-10	14

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

Authority Policy

The Authority will consider granting exceptions to the occupancy standards at the family's request if the Authority determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests the Authority will consider the size and configuration of the unit. In no case will the Authority grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code.

To prevent vacancies, the Authority may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

Authority Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the Authority will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the Authority will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The Authority will notify the family of its decision within 30 calendar days of receiving the family's request.

PART II: UNIT OFFERS

(24 C.F.R. § 1.4(b)(2)(ii); 24 C.F.R. § 960.208.)

5-II.A. OVERVIEW

The PHA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, the PHA must offer the dwelling unit to an applicant in the appropriate offer sequence. The PHA will offer the unit until it is accepted. This section describes the PHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the PHA's policies for offering units with accessibility features.

Authority Policy

The Authority will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

Authority Policy

After accepting the offer of housing, the applicant will be shown a vacant unit in their referred location. Units and applicants are matched based on the size and type of housing required by an applicant, taking into account priorities for accessibility and allocation plans. The applicant will be offered a suitable unit in that location. If the offer is rejected, the applicant will be offered the next suitable unit that becomes available, whether it is at the same location as the first offer or at another location. The second unit offer will be the final offer, unless there is good cause for refusing the offer.

The PHA will withdraw the application after the applicant declines the offer of housing (without "good cause" as defined in Chapter 12). The applicant will have the option to re-apply when the waiting list is open.

The Authority will remove the Applicant from all Authority waitlist, including any transfer waitlists upon acceptance of the unit.

If the notice is returned by the post office with no forwarding address, the applicant will be withdrawn and will not be placed back on the waiting list(s). If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. If the notice is again returned by the post office, the applicant will be withdrawn and will not be

placed back on the waiting list(s).

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

Authority Policy

Applicants must accept or refuse a unit offer within seven calendar days of the date of the unit offer.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position or placement on the public housing waiting list (24 C.F.R. § 945.303(d).)

Authority Policy

Applicants may refuse to accept a unit offer for "good cause." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. (PH Occ GB, p. 104.) Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

- The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with Section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The Authority will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

Authority Policy

When an applicant rejects the final unit offer without good cause, the Authority will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal review and the process for doing so (See Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the Authority opens the waiting list.

5-II.E. ACCESSIBLE UNITS (24 C.F.R. 8.27)

PHAs must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the PHA must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the PHA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists; then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the PHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

Authority Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the PHA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the PHA will require the applicant to agree to move to an available non-accessible unit within 30 calendar days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

When applicable, the PHA's policies for offering units designated for elderly families only or for disabled families only are described in the PHA's Designated Housing Plan.

Chapter 6

INCOME AND RENT DETERMINATIONS

(24 C.F.R. Part 5, Subparts E and F; 24 C.F.R. § 960(C))

INTRODUCTION

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. The PHA will use the policies and methods described in this chapter to ensure that only income eligible families receive assistance and that no family pays more or less rent than is required under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to which are excluded from the family's annual income. These requirements and Authority policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and Authority policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established HUD regulations require the Authority to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the Authority to adopt additional permissive deductions. These requirements and Authority policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice of rents.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW [24 CFR 5.609]

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds $50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, HUD regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received", not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded (both earned and unearned) (24 C.F.R.§ 5.609(b)(8).)
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded (24 C.F.R. § 5.609(b)(8).)
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included. [24 CFR 5.609(a)]
Minors	Earned income of children under 18 years of age is excluded (24 C.F.R. § 5.609(b)(3).) All sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Earned income in excess of the dependent deduction is excluded (24 C.F.R. § 5.609(b)(14).) All sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define "temporarily" or "permanently" absent or specify a timeframe associated with a temporary versus a permanent absence.

Authority Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive calendar days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive calendar days is considered permanently absent and no longer a family member. Exceptions to this general policy are

discussed below.

Absent Students

Authority Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the Authority indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family. (24 C.F.R.§ 5.403.)

Authority Policy

If a child has been placed in foster care, the Authority will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will continue to be counted as a family member.

Absent Head, Spouse, or Co-head

Authority Policy

An employed head, spouse, or co-head absent from the unit more than 180 consecutive calendar days due to employment will continue to be considered a family member**.**

Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, the PHA may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, Income Determinations P12].

Authority Policy

The Authority will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined to be permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Children

Authority Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Authority will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

Caretakers for a Child

Authority Policy

The approval of a caretaker is at the Authority's discretion and subject to the Authority's screening criteria. If neither a parent nor a designated guardian remains in a household, the Authority will take the following actions.

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 calendar days. After the 90 calendar days have elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the Authority will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Anticipating Annual Income [24 CFR 5.609(c)(1)]

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date.

Policies related to verifying income are found in Chapter 7.

Authority Policy

When the Authority cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the Authority will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the Authority to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the Authority annualized projected income.

Known Changes in Income

If the PHA verifies an upcoming increase or decrease in income, annual income will be projected by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $8.00/hour will begin to receive $8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case the PHA would calculate annual income as follows: ($8.00/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with Authority policy in Chapter 9.

Calculating Annual Income at Annual Reexamination [24 CFR 609(c)(2)]

At annual reexamination, the PHA must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.

6-I.D. EARNED INCOME

Wages and Related Compensation **(24 C.F.R. § 5.609(a); Notice PIH 2023-27)**

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A ***day laborer*** is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position(e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

Authority Policy

The Authority will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the Authority will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the Authority will use the prior year amounts. In either case the family may provide, and the Authority will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the Authority will count only the amount estimated by the employer. The file will be documented appropriately.

Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire. (24 C.F.R. § 5.609(b)(11))

***Earnings of a Minor* (24 C.F.R. § 5.609(b)(3).)**

A minor is a member of the family, other than the head of the household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Earned Income of Full-Time Students (24 CFR 5.609(b)(14))

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, *Lease Requirements,* p. 5].

6-I.E. EARNED INCOME DISALLOWANCE (24 C.F.R. § 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27)

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

Authority Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, the PHA must exclude at least half (50 percent) of any increase in income attributable to employment or increased earnings.

Authority Policy

During the second 12-month exclusion period, the PHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24 month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24 month period, an individual remains eligible for EID even if they begin to receive assistance from another housing agency, if the individual moves between public housing and the Housing Choice Voucher Program assistance, or if there are breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

Individual Savings Accounts (24 C.F.R. § 960.255(d).)

Authority Policy

The Authority chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME (24 C.F.R. 5.609(b)(28); Notice PIH 2023-27)

Annual income includes "net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family."

Authority Policy

To determine business expenses that may be deducted from gross income, the Authority will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses (see IRS Publication 535), unless a topic is addressed by HUD regulations or guidance as described herein.

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or

amount of the income varies [24 CFR 2.609 (b)(24)].
An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

Business Expansion

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

Authority Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

Authority Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the Authority will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

Authority Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of $2,000.00 to help a business get started, the Authority will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

Authority Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

6-I.G. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students.

Types of Assistance

Any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].
Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
- The Higher Education Tribal Grant
- The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;

- Including supplies and equipment to support students with learning disabilities or other disabilities

- Room and board; and

- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the education institution;

- To assist a student with the costs of higher education; or

- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.
The financial assistance must be a grant or scholarship received from:

- The Federal government;

- A state, tribal, or local government;

- A private foundation registered as a nonprofit;

- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);

- Gifts, including gifts from family or friends; or

- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered

costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

Authority Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the Authority will exclude the full amount of the assistance received under Title IV from the family's annual income. The Authority will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the Authority will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The Authority will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The Authority will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the Authority will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance"

would be excluded from income.

Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the Authority will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

Authority Policy

The Authority will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reported during this period in which the Authority is processing an annual reexamination, the Authority will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the Authority is processing an annual reexamination, then the Authority will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the Authority will conduct an interim in accordance with Authority policies in Chapter 9. If not, the Authority will consider the

amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]
Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.
However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.
An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2023-27]
The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.
Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

Authority Policy
Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the Authority must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Alimony and Child Support
Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Authority Policy

The Authority will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The Authority will count court-awarded amounts for alimony and child support unless the family certifies and the Authority verifies that the payments are not being made.

In order to verify that payments are not being made, the Authority will review child support payments over the last three months.

If payments are being made regularly, the Authority will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the Authority will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the Authority will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the Authority determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the Authority determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, the Authority will not include alimony or child support in annual income.

6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;

- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

Sanctions Resulting in the Reduction of Welfare Benefits (24 C.F.R. § 5.615.)

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 C.F.R. 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by Chapter 24 of the Code of Federal Regulations Part 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" (24 C.F.R. § 5.615(b).)

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits; (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements,; or (3) because a family member has not complied with other welfare agency requirements. (24 C.F.R. § 5.615(b)(2).)

For special procedures related to grievance hearings based upon the AUTHORITY's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero (24 C.F.R. § 5.615(c)(4).)

6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may

include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.
Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed $50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]

Other exclusions contained in 24 C.F.R. § 5.609(b) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].

- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

Authority Policy

The Authority defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the

individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

The Authority defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].

In calculating the incremental difference, the Authority will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:

(a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))

(b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC

(c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)

(d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

(e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

(f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

(g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)
(v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
(w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations

(aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

PART II: ASSETS

6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].
The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.
Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.
Income from assets is always anticipated, irrespective of the income examination type.

Authority Policy

The Authority generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The Authority will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the Authority believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the Authority can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

Minimum Threshold

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New

PH OCC GB, *Income Determinations,* p. 24].

Authority Policy

The Authority will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

Authority Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Asset Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

Family Declaration

Authority Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The Authority may verify the value of the assets disposed of if other information available to the Authority does not appear to agree with the information reported by the family.

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not

non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than $50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than $50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is $0. When the stock

never issues dividends, the actual return is $0.

Authority Policy

The Authority will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the Authority will use the value of the account on the most recent investment report.

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds $50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.

Authority Policy

In determining the value of non-necessary personal property, the Authority will use the family's estimate of the value. The Authority may obtain an appraisal if there is reason to believe that the

family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

Authority Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Jointly Owned Assets [Notice PIH 2023-27]

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

> **Authority Policy**
> If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is

not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds $50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered $0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].

- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

Authority Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations,* p. 24].

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered $0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed $50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total $50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

Imputed Income from Assets

When net family assets exceed $50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of $0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview
HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

> 5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:
>
> (a) *Mandatory deductions*
> (1) $480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);
> (2) $525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);
> (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
> (i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
> (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
> (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

Authority Policy

Generally, the Authority will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the Authority will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the Authority will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The Authority may require the family to provide

documentation of payments made in the preceding year.

When calculating health and medical care expenses, the Authority will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations,* p. 30]. For annual reexaminations, the Authority will use information for the previous 12-month period.

6-III.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25). [24 CFR 5.611(a)(1)].

Dependent is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed."

Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition of *health and medical care expenses*.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

Authority Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the Authority will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

Authority Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the Authority will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the

person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the Authority determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes. [New PH OCC GB, *Income Determination,* p. 28].

Eligible Auxiliary Apparatus [Notice PIH 2023-27]
Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

Eligible Attendant Care [Notice PIH 2023-27]
Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

Authority Policy
Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the Authority will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members
No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses
The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

Authority Policy
The Authority determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the Authority will collect information from organizations that provide services and support to persons with disabilities. A family

may present, and the Authority will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

Authority Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the Authority will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

Authority Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the Authority will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Authority Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the Authority.

Furthering Education

Authority Policy

If the childcare expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

Authority Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

Authority Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the Authority generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

Authority Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the Authority will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Authority Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class. To establish the reasonableness of child care costs, the Authority will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and the Authority will consider,

justification for costs that exceed typical costs in the area.

6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.

- When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA.

When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.

Authority Policy

The Authority will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

Authority Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. The Authority defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with Authority policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance

program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the Authority.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the Authority will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

Authority Policy

The Authority will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the Authority denies the hardship exemption request, the Authority notice will also state that if the family does not agree with the Authority determination, the family may request a hearing.

If the family qualifies for an exemption, the Authority will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

Authority Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The Authority will extend relief for an additional 90-days if the family demonstrates to the Authority's satisfaction that the family continues to qualify for

the hardship exemption based on circumstances described above. The Authority will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the Authority may terminate the hardship exemption if the Authority determines that the family no longer qualifies for the exemption.

Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

Authority Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The Authority defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The Authority will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the Authority will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted

income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

Authority Policy

The Authority will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the Authority denies the hardship exemption request, the Authority notice will also state that if the family does not agree with the Authority determination, the family may request a grievance hearing.

If the family qualifies for an exemption, the Authority will all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. . PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

Authority Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The Authority will extend relief for an additional 90-days if the family demonstrates to the Authority's satisfaction that the family continues to qualify for the hardship exemption. The Authority will require updated verification based on the

family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the Authority may terminate the hardship exemption if the Authority determines that the family no longer qualifies for the exemption.

6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(i)]

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the ACOP. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

Authority Policy

The Authority will deduct from annual income payments issued to public housing families for research-related programs. Programs that qualify as "research-related" will be determined at the sole discretion of the Authority. The decision of the Authority is not grievable.

PART IV: CALCULATING RENT

6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

TTP Formula (24 C.F.R. § 5.628.)

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II);
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12);
- The welfare rent (in as-paid states only);
- A minimum rent between $0 and $50 that is established by the PHA.

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

Welfare Rent (24 C.F.R. § 5.628.)

Authority Policy

Welfare rent does not apply in this locality.

Minimum Rent (24 C.F.R. § 5.630.)

Authority Policy

The minimum rent for this locality is $25.00.

Optional Changes to Income-Based Rents (24 C.F.R. 960.253(c)(2); PH Occ GB, pp. 131-134.)

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

Authority Policy

The Authority chooses not to adopt optional changes to income-based rents.

Ceiling Rents (24 C.F.R. §§ 960.253 (c)(2); 960.253 (d).)

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities). (PH Occ GB, p. 135.)

Authority Policy

The Authority chooses not to use ceiling rents.

Utility Reimbursement (24 C.F.R. § 960.253(c)(4).)

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

Authority Policy

The Authority will make utility reimbursements to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The PHA must issue reimbursements that exceed $15.00 per month on a monthly basis.

Authority Policy

The Authority will issue all utility reimbursements monthly.

6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT (24 C.F.R. § 5.630.)

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

   Authority Policy

   A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

   For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

2) The family would be evicted because it is unable to pay the minimum rent.

   Authority Policy

   For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

3) Family income has decreased because of changed family circumstances, including the loss of employment.

4) A death has occurred in the family.

   Authority Policy

   In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

5) The family has experienced other circumstances determined by the PHA.

   Authority Policy

   The Authority has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

Authority Policy

The Authority defines temporary hardship as a hardship expected to last 90 calendar calendar days or less. Long term hardship is defined as a hardship expected to last more than 90 calendar days.

The Authority may not evict the family for nonpayment of minimum rent during the 90 calendar - day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $25.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income
$15 10% of monthly gross income	$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
$25 Minimum rent	$25 Minimum rent
Minimum rent applies. TTP = $25	Hardship exemption granted. TTP = $15

Authority Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The Authority will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

Authority Policy

The Authority will require the family to repay the suspended amount within 30 calendar days of the Authority's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

Authority Policy

The Authority will enter into a repayment agreement in accordance with the Authority's repayment agreement policy (see Chapter 16).

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

Authority Policy

The hardship period ends when any of the following circumstances apply:

1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent;
2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60.00/month child support payment, the hardship will continue to exist until the family receives at least $60.00/month in income from another source or once again begins to receive the child support;
3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-IV.C. UTILITY ALLOWANCES (24 C.F.R. 965, Subpart E.)

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation (24 C.F.R. § 8.)

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability. (PH Occ GB, p. 172.)

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability. (PH Occ GB, p. 172.)

See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions (24 C.F.R. § 965.507.)

The PHA must review its schedule of utility allowances each year. Between annual reviews, the PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. (PH Occ GB, p. 171.)

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule (24 C.F.R. § 960.253(c)(3).)

Authority Policy

Unless the Authority is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

6-IV.D. PRORATED RENT FOR MIXED FAMILIES (24 C.F.R. 5.520)

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the PHA must:

1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible;
2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy);
3) Multiply the member maximum subsidy by the number of eligible family members;
4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP;
5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

Authority Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

6-IV.E. FLAT RENTS AND FAMILY CHOICE IN RENTS (24 C.F.R. 960.253.)

Flat Rents (24 C.F.R. § 960.253(b).)

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents (24 C.F.R. § 960.253(a) and (e).)

With the exception of non-public housing over-income families, once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be

offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

Authority Policy

The annual Authority offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The authority will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The PHA must provide sufficient information for families to make an informed choice. This information must include the PHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the PHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship (24 C.F.R. § 960.253(f).)

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

Authority Policy

Upon determination by the Authority that a financial hardship exists, the Authority will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items;
- Such other situations determined by the PHA to be appropriate.

Authority Policy

The Authority considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent. (PH Occ GB, p. 137.)

Phasing In Flat Rents (Notice PIH 2015-13; 24 C.F.R. § 960.253(b).)

When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased-in at the time of their annual recertification. To do this, PHAs conduct a flat rent impact

analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased-in, the PHA must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under the PHA's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2015-13 requires that flat rents must be phased in at the full 35 percent per year. The PHA does not have the option of phasing in flat rent increases at less than 35 percent per year.

Example: A family was paying a flat rent of $500.00 per month. At their annual recertification, the PHA has increased the flat rent for their unit size to comply with the new requirements to $700. The PHA conducted a flat rent impact analysis as follows:

$500.00 x 1.35 = $675.00

Since the PHA's increased flat rent of $700 resulted in a rent increase of more than 35 percent, the PHA offered the family the choice to pay either $675.00 per month or an income-based rent. The flat rent increase was phased in. At their next annual recertification in November 2015, the PHA will again multiply the family's current flat rent by 1.35 and compare the results to the PHA's current flat rent.

Flat Rents and Earned Income Disallowance (A&O FAQs.)

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Chapter 7

VERIFICATION

(24 C.F.R. § 960.259, 24 C.F.R. § 5.230; Notice PIH 2023-27)

INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION (24 C.F.R. § 960.259; 24 C.F.R. § 5.230; and Notice PIH 2023-27)

Consent Forms

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information. (24 C.F.R. § 960.259(a)(1).). All adult applicants and tenants must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

Authority Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection

Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].
The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

Penalties for Failing to Consent (24 C.F.R. § 5.232.)

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the PHA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

Authority Policy

The Authority has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with Authority policy.

In order for a family to revoke their consent, the family must provide written notice to the Authority.

Within 15 calendar days of the date the family provides written notice, the Authority will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the Authority will notify the local HUD office.

7-I.B. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

Authority Policy

The Authority will use streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

- The Authority will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.
- The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.
- The Authority will document in the file how the determination that a source of income was fixed was made.
- Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

- If the family's sources of fixed income have changed from the previous year, the Authority will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

- The Authority will apply a COLA to each of the family's sources of fixed income.
- All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

- Of all assets when net family assets exceed $50,000;
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During the intake process and at least once every three years thereafter.

7-I.C. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds $50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.
In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
- Written third-party verification from the source, also known as "tenant-provided verification"
- Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

Authority Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the Authority. The documents must not be damaged, altered or in any way illegible.
Print-outs from official web pages are considered original documents.

The Authority staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the Authority and must be signed in the presence of an Authority representative or Authority notary public.

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

Authority Policy

The Authority will document, in the family file, the following:

- Reported family annual income
- Value of assets

- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available (24 C.F.R. 960.259(c)(1); Notice PIH 2010-19.)

7-I.D. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 C.F.R. 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or

- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission. When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

Authority Policy

The Authority will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The Authority will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When the Authority determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

Authority Policy

In accordance with Authority policies in Chapter 9, the Authority does not process interim reexaminations for families who have increases in earned income. The Authority will only review the New Hires Report at annual reexamination.

No Income Reported by HHS or SSA Report

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no

income information was reported by either HHS or SSA records. This scenario does not mean that the tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

Authority Policy

The Authority will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The Authority will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the Authority may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the Authority determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification Report

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EI (Notice PIH 2023-27).

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

Authority Policy

The Authority will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis. The Authority will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When the Authority determines that discrepancies exist as a result of Authority errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

Authority Policy

The Authority will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must conduct a home visit to determine if anyone is residing in the unit.

PHAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the PHA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

Authority Policy

The Authority will inform all applicants and residents of its use of the following UIV resources:

- HUD's EIV system

7-I.E. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

Authority Policy

At annual reexamination, if the Authority is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the Authority will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The Authority will use an average of the last two quarters of income listed in EIV to determine income from employment. The Authority will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the Authority will use written third-party verification from the source as outlined below.

The Authority will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as "tenant-provided verification." In order to qualify as written-third party verification from the source, the documents must be original and authentic and dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: (1) pay stubs; (2) payroll summary reports; (3) employer notice or letters of hire and termination; (4) SSA benefit verification letters; (5) bank statements; (6) child support payment stubs; (7) welfare benefit letters and/or printouts; and (8) unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

The PHA may reject documentation provided by the family if the document is not an original, if

the document appears to be forged, or if the document is altered, mutilated, or illegible.

Authority Policy

In general, the Authority will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used;
- For all new admissions; and
- For all interim reexaminations.

The Authority will not use this method if the Authority uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the Authority. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The Authority may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the Authority determines that third-party documents provided by the family are not acceptable, the Authority will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the Authority will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the Authority will require the family to provide the two most current, consecutive pay stubs. At the Authority's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the Authority may request additional paystubs or a payroll record.

7-I.F. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023-27]

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

Authority Policy

The Authority will send third-party verification forms directly to the third-party verification source whenever higher forms of verification are unavailable.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the Authority.

However, on a case-by-case basis, the Authority may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7-I.G. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time (e.g., 15 calendar days).

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

Authority Policy

In collecting third-party oral verification, Authority staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the Authority will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

Authority Policy

If the family cannot provide original documents, the Authority will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost (VG, p. 18.)

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7-I.H. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.
Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total $50,000 or less and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available. HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

Authority Policy

The Authority will accept a self-certification from a family as verification of assets disposed of for less than fair market value (HCV GB, p. 5-28.)

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the Authority.

The Authority may require a family to certify that a family member does *not* receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the Authority and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

Value of Assets and Asset Income (24 C.F.R. § 960.259.)

For families with net assets totaling $5,000.00 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process whenever a family member is added and at least every three years thereafter.

Authority Policy

For families with net assets totaling $5,000.00 or less, the Authority will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The Authority will use third-party documentation of assets as part of the intake process, whenever a family member is added to verify the individual's assets and every three years thereafter.

PART II
VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

Authority Policy

The Authority will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the Authority's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the Authority and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the Authority has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

If a family is unable to provide original verification of legal identity due to domestic violence, dating violence, sexual assault or stalking, the Authority will grant the family an extension of at least 90 calendar days in order to permit the family to obtain replacement identification.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA);
- An original SSA-issued document, which contains the name and SSN of the individual;
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document or if the original document has been altered, mutilated, or is ineligible, or appears to be forged.

Authority Policy

The Authority will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the Authority within 90 calendar days.

If an applicant family includes a child under six (6) years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 calendar days A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

Authority Policy

The Authority will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such a delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency.

When the resident requests to add a new household member who is at least six (6) years of age, or who is under the six (6) years of age and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of six (6) and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the

required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Authority Policy

The Authority will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

Authority Policy

The Authority will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers;

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder.

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

Authority Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the Authority will remove and destroy copies of documentation accepted as evidence of social security numbers.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

Authority Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the Authority will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year

is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

If a family is unable to provide original verification of legal identity due to domestic violence, dating violence, sexual assault or stalking, the Authority will grant the family an extension of at least 90 calendar days in order to permit the family to obtain replacement identification.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Authority Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Authority Policy

Certification by the head of household is normally sufficient verification. If the Authority has reasonable doubts about a marital relationship, the Authority will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

Separation or Divorce

Authority Policy

Certification by the head of household is normally sufficient verification. If the Authority has reasonable doubts about a divorce or separation, the Authority will require the family to provide documentation of the divorce, or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a copy of a court-ordered maintenance or other court record to document a separation; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

Authority Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

Authority Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

If the adult member is absent from the household due to domestic violence, dating violence, sexual assault or stalking, the remaining family member can verify this through self-certification or form HUD-5382.

7-II.E. VERIFICATION OF STUDENT STATUS

Authority Policy

The Authority requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or co head, or

The family claims a childcare deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability (24 C.F.R. § 100.202(c).) The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at: http://www.hhs.gov/ocr/privacy/

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities (VG, p. 24.):

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons

with disabilities or to persons with a particular type of disability

- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions (VG, p. 23).

Authority Policy

For family members claiming disability who receive disability payments from the SSA, the Authority will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the Authority will request a current (dated within the last 60 calendar days.)) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the Authority will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, it will be required to provide the letter to the Authority.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 C.F.R.§ 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

Authority Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS (24 C.F.R. § 5.508.)

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants or VAWA self-petitioners. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or a VAWA self-petitioner and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy (24 C.F.R.§ 5.508(g)(5).)

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Authority Policy

Family members will be required to provide a U.S. birth certificate, United States passport, Employment Authorization card, temporary resident card, or other appropriate documentation as provided by section 214 of the Housing and Community Development Act of 1980, as amended.

Eligible Immigrants and VAWA Self-Petitioners

Documents Required

All family members claiming status as an eligible immigrant or VAWA self-petitioner must declare their status in the same manner as U.S. citizens and nationals.

PHAs must obtain verification of the declaration by requiring presentation of appropriate documentation, as provided by Section 214 of the Housing and Community Development Act of 1980, as amended.

Authority Policy

Family members who claim status as an eligible immigrant or VAWA self-petitioner will be required to provide Section 214 documents listed in 24 CFR Section 5.508(b)(1) and referred to in Section 5.510. Exhibit 7-1 at the end of this chapter summarizes documents family

members must provide.

PHA Verification (HCV GB, pp 5-3 and 5-7.)

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined his or her placement on the waiting list.

Authority Policy

The Authority will verify the preference at the time of initial intake. If the preference is not verified at that time, the applicant will be placed back on the waiting list based on the date and time of application.

PART III

VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

Authority Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

Wages

Authority Policy

For wages other than tips, the family must provide originals of the two most current consecutive pay stubs.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

Authority Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The Authority will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the Authority may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the Authority will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the Authority will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

Authority Policy

To verify the SS/SSI benefits of applicants, the Authority will request a current (dated within the last 60 calendar days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the Authority will help the applicant request a benefit verification letter from SSA's Web site at: www.socialsecurity.gov, or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the original benefit verification letter, it will be required to provide the letter to the Authority.

To verify the SS/SSI benefits of residents, the Authority will obtain information about social security/SSI benefits through HUD's EIV system, and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the Authority will request a current SSA benefit verification letter from each family member that receives social security benefits. If a family member is unable to provide the document, the Authority will help the resident request a benefit verification letter from SSA's Web site at: www.socialsecurity.gov or ask the family to request one by calling SSA at: 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the Authority.

Social Security/SSI Benefits Elderly Families and Disabled Families on Fixed Income (PIH Notice 2013-3)

Authority Policy

1) Authority will conduct a streamlined re-examination of income for elderly families and disabled families when 100 percent of the family's income consists of fixed income. The Agency will recalculate family incomes by applying any published cost of living adjustments to the previously verified income amount.

2) For purposes of this streamlined process, the term "fixed income" includes income from:
    a. Social Security payments to include Supplemental Security Income (SSI_ and Supplemental Security Disability Insurance (SSDI);

    b. Federal, State, local, and private pension plans; and

    c. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Authority Policy

The methods the Authority will use to verify alimony and child support payments differs depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

1) Copies of the receipts and/or payment stubs for the 60 calendar days prior to the Authority's request
2) Third-party verification form from the state or local child support enforcement agency
3) Third-party verification form from the person paying the support
4) Family's self-certification of amount received
5) If the family declares that it receives irregular or no payments

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

Authority Policy

The Authority will accept self-certification from the family stating that income will not be repeated in the coming year. However, the Authority may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling $50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed $50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed $50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.
PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over $50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed $50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

Authority Policy

For families with net assets totaling $50,000 or less, the Authority will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All

family members 18 years of age and older must sign the family's declaration. The Authority reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the Authority will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the Authority will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 13. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

Authority Policy

Both at admission and reexam, the Authority will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The Authority reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the Authority will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the Authority will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

Authority Policy

The Authority will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The Authority will verify the value of assets disposed of only if:

The Authority does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly resident reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that they gave $10,000 to their son. The PHA has a reasonable estimate of the value of the asset; therefore, recertification of the value of the asset is not necessary. Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.H. NET INCOME FROM RENTAL PROPERTY

Authority Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant;

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the Authority will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000.

7-III.J. RETIREMENT ACCOUNTS

Authority Policy

The Authority will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the Authority will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than six (6) months from the effective date of the examination.

Upon retirement, the Authority will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, the Authority will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.
For fully excluded income, the PHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).
PHAs may accept a family's signed application or reexamination form as self-certification of fully

excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.
For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

Authority Policy

The Authority will accept the family's self-certification as verification of fully excluded income. The Authority may request additional documentation if necessary to document the income source.

The Authority will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.L. ZERO INCOME REVIEWS [Notice PIH 2023-27]

A *zero income review* is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

Authority Policy

The Authority will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

The Authority will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the Authority will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The Authority will only conduct interims in accordance with Authority policy in Chapter 9.

7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

Authority Policy

The Authority will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the Authority will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the Authority is unable to obtain third-party written verification of the requested information, the Authority will pursue other forms of verification following the verification hierarchy in section 7-I.B.

PART IV

VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or co-head of the family and is not a foster child;
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student.

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Authority Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or

receipts.

The Authority will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Authority will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the PHA must verify that:

- The household is eligible for the deduction;
- The costs to be deducted are qualified medical expenses;
- The expenses are not paid for or reimbursed by any other source;
- Costs incurred in past years are counted only once.

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or co head is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

Authority Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

Authority Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the Authority will verify:

1) The anticipated repayment schedule;
2) The amounts paid in the past; and
3) Whether the amounts to be repaid have been deducted from the family's annual income in past years.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

Authority Policy

The Authority will accept written third-party documents provided by the family.

If family-provided documents are not available, the Authority will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

1) Written third-party documents provided by the family, such as receipts or cancelled checks;
2) Third-party verification form signed by the provider, if family-provided documents are not available;
3) If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

Authority Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total

payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

1) The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
2) The expense permits a family member, or members, to work (as described in Chapter 6)
3) The expense is not reimbursed from another source (as described in Chapter 6)

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.)

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

Authority Policy

The Authority will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.) This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

Authority Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA must verify that:

- The child is eligible for care (12 years of age or younger);
- The costs claimed are not reimbursed;
- The costs enable a family member to work, actively seek work, or further their education;
- The costs are for an allowable type of child care; and
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under 13 years of age. (See 7-II.C.)

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

Authority Policy

The family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Authority Policy

Information to be Gathered

The Authority will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child,

and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the Authority will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the Authority will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the Authority any reports provided to the other agency.

In the event third-party verification is not available, the Authority will provide the family with a form on which the family member must record job search efforts. The Authority will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The Authority will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The Authority will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

Authority Policy

The Authority will verify that the type of childcare selected by the family is allowable, as described in Chapter 6.

The Authority will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The Authority will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

Authority Policy

The actual costs the family incurs will be compared with the Authority's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the Authority will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens (HCV GB, pp. 5-9 and 5-10)

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the AUTHORITY.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 8

LEASING AND INSPECTIONS

(24 C.F.R.§ (G); 24 C.F.R. § 966(A).)

INTRODUCTION

Public housing leases are the contractual basis of the legal relationship between the PHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, the PHA may conduct additional inspections in accordance with PHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and the PHA's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes the PHA's policies for inspecting dwelling units and notifying families of HUD REAC NSPIRE inspections.

PART I

LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the PHA may not renew the lease if the family has violated the community service requirement and if the family is determined to be over income for 24 consecutive months (24 C.F.R. § 966.4(a)(2)).

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the PHA's leasing policies.

For policies on lease requirements for families whose incomes have exceeded the over-income limit for 24 consecutive months, see 13-III.C., Over-Income Families.

8-I.B. LEASE ORIENTATION

Authority Policy

After unit acceptance but prior to occupancy, a PHA representative will conduct a lease orientation with the family. The head of household or spouse is required to attend.

Orientation Agenda

Authority Policy

When families attend the lease orientation, they will be provided with:

1) A copy of the lease
2) A copy of the Authority's grievance procedure
3) A copy of the house rules
4) A copy of the Authority's schedule of maintenance charges
5) A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
6) A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

7) Information about the protections afforded by the Violence against Women Reauthorization Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault, and stalking (see section 16-VII.C)

Topics to be discussed and explained to all families include:

1) Applicable deposits and all other charges
2) Review and explanation of lease provisions
3) Unit maintenance requests and work orders
4) The PHA's interim reporting requirements
5) Review and explanation of occupancy forms
6) Community service requirements
7) Family choice of rent
8) VAWA protections

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the PHA, except for automatic renewals of a lease (24 C.F.R. § 966.4(a)(3).)

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one PHA unit to another.

The lease must state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) (24 C.F.R. § 966.4(a)(1)(v).) See Section 8-I.D. for policies regarding changes in family composition during the lease term.

Authority Policy

The head of household, spouse or co head, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the Authority will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to Authority assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the PHA (24 C.F.R. § 966.4(a)(3).)

Modifications to the Lease Form

The PHA may modify its lease from time to time. However, the PHA must give residents at least 30 calendar days advance notice of the proposed changes and an opportunity to comment on the changes. The PHA must also consider any comments before formally adopting a new lease. (24 § C.F.R. 966.3.)

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 calendar days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy. (24 C.F.R.§ 966.4(l)(2)(iii)(E).)

Authority Policy

The family will have 30 calendar days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 calendar day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least 30 calendar days' written notice of the reason(s) for any proposed modifications or revisions and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective. (24 C.F.R. § 966.5.)

After the proposed revisions become effective, they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request. (24 C.F.R.§ 966.5.)

Authority Policy

When the Authority proposes to modify or revise schedules of special charges or rules and regulations, the Authority will post a copy of the notice in the central office and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications

Authority Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and the Authority will be required to initial and date the change.

If a new household member is approved by the Authority to reside in the unit, the person's name and birth date will be added to the lease. The head of household and the Authority will be required to initial and date the change. If the new member of the household is an adult, they will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS (24 C.F.R. § 966.4(b)(5))

At the option of the PHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the PHA. The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit or used for tenant services or activities.

Authority Policy

Residents must pay a security deposit to the Authority at the time of admission. The amount of the security deposit will be the greater of $100.00 or an amount equal to the family's total tenant payment at the time of move-in and must be paid in full prior to occupancy. In situations of financial hardship, the resident and the Authority may enter into an agreement to pay the security deposit in installment payments until the deposit is paid in full.

The Authority will hold the security deposit for the period the family occupies the unit. The Authority will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 21 calendar days of move-out, the Authority will refund to the resident the amount of the security deposit less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The Authority will provide the resident with a written list of any charges against the security deposit within 15 calendar days of the move-out inspection. If the resident disagrees with the amount charged, the Authority will provide a meeting to discuss the charges.

If the resident transfers to another unit, the Authority will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments (24 C.F.R. § 966.4(b)(1))

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA must give written notice stating any change in the amount of tenant rent and when the change is effective. Partial payments shall not be accepted.

Authority Policy

HUD requires the Authority to collect rent from all public housing participants. The Authority requires that each resident make timely rent payments monthly.

I. Rent Due Date

Monthly rent shall be paid on or before the first day of each calendar month and will be considered late on the tenth (10) calendar day of the month.

II. Late Fee

A $10.00 late charge will be assessed if Rent is not received by the tenth (10) calendar day of the month. The late charge shall be due and payable fourteen (14) calendar days after the Authority gives written notice of said charge. Tenant agrees that this provision for payment of a late charge does not establish a grace period and that the Authority may serve a "Notice to Pay Rent or Quit" the premises at any time after the payment is due. Payment of the late charge does not cure the late payment for purposes of establishing habitual late payment of rent as defined in Section 5(D).

III. Methods of Payment

Tenant shall pay Rent to the Authority by personal check, certified check, money order, electronic benefits transfer (EBT), or by other electronic means acceptable to the Authority. Tenants who submit a check that is returned for insufficient funds or a closed or non-existent account shall be assessed a service charge of $25.00 and shall make future payment by certified check or money order only. The Authority will not accept personal checks for past-due Rent. The Authority has the right to demand certified funds

on nonpayment of Rent notices.

IV. Third-Party Money Management Requirement (Direct Payment Program)

In the event of habitual late payment, the Authority shall have the right, in addition to all other remedies and at law, to require that Tenant participate in a direct payment program. A "direct payment program" is one where the third party, to be determined by the Authority, pays rent directly to the Authority on behalf of the tenant until the balance is paid in full. "Habitual late payment" shall mean failure by tenant to pay rent by the tenth (10^{th}) of each month or any other payments required under this Lease for any three (3) months during any twelve (12) month period. Authority may terminate or refuse to renew the Lease agreement in the event of habitual late payment and the Tenant has failed to enter into a direct payment program

V. Dispute of Rent Amount

If the tenant disagrees with the rent amount, they may request a meeting with the property manager to review the ledger.

VI. Hearing

A tenant may request a hearing prior to losing their housing resulting from non-payment of rent. A tenant may request an informal hearing through the Department of Government Affairs and Policy within 14 calendar days of the receipt of the 14- calendar day notice to pay rent or quit.

VII. Housing Retention Agreement

A Housing Retention Agreement (HRA) is an agreement which provides for the payment of all outstanding rents owed by the tenant, with the objective that the tenant will be permitted to continue to rent the unit. A HRA may be entered into in accordance with this policy in section 16-III.B.

VIII. Refusal to Pay Rent or Balance Owed

Should the tenant refuse to pay on the balance owed, not request a hearing, not prevail in the hearing, or not act on the 14-day notice, legal proceedings will commence including the filing of an unlawful detainer action.

Court filed settlement agreements for stipulated judgment or dismissal may be entered into on a case-by-case-basis. Once a settlement agreement for stipulated judgment or dismissal is entered into, it must be abided by. Any breach of the agreement will result in

eviction.

If the household's rent changes, the Authority will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment," which will become an attachment to the lease.

Late Fees, Repayment Agreements and Nonpayment [24 CFR 966.4(b)(3); Notice PIH 2021-29]

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent. (24 C.F.R. § 966.4(b)(3))

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing the notice of adverse action. (24 C.F.R. § 966.4(b)(4).)

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their rights for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe) the grievance process has been completed. (24 C.F.R. § 966.4(e)(8).)

Authority Policy

If the family fails to pay their rent by the tenth (10) day of the month, and the Authority has not agreed to accept payment at a later date, a 30-day Notice to Vacate (during nationwide emergency orders) or a 14-day Notice to Vacate (upon expiration of nationwide emergency orders) will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises. Partial payments shall not be accepted.

In addition, if the resident fails to make payment by the end of office hours on the tenth (10) day of the month, a late fee of $25.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing.

If the family requests a grievance hearing within the required timeframe, the Authority may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $25.00 will be charged to the family. The fee will be due and payable 14 calendar days after billing.

When a family pays their agreed upon portion monthly and on time in accordance with

the Court Stipulated Agreement for the course of two years without missing a payment, the Authority will dismiss the lawsuit and enter the tenant into a Housing Retention Agreement. This provision only applies to cases wherein the sole issue in the lawsuit is rent. It is the family's responsibility to ensure that they adjust their 7.5% contribution to the debt as rent change notices are received.

Excess Utility Charges

If the PHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances. (24 C.F.R. § 966.4(b)(2).)

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request. (24 C.F.R. § 966.5.)

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action. (24 C.F.R. § 966.4(b)(4).)

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe) the grievance process has been completed. (24 C.F.R.§ 966.4(e)(8).)

Authority Policy

When applicable, families will be charged for excess utility usage according to the Authority's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions.
Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the Authority may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease

must state the basis for the determination of such charges. (24 C.F.R. § 966.4(b)(2).)

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request. (24 C.F.R.§ 966.5.)

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action. (24 C.F.R. § 966.4(b)(4).)

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe) the grievance process has been completed. (24 C.F.R.§966.4(e)(8).)

Authority Policy

When applicable, families will be charged for maintenance and/or damages according to the Authority's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the Authority may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

PART II

INSPECTIONS

8-II.A. OVERVIEW

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the PHA to inspect each public housing unit prior to move-in and at move-out. The PHA may require additional inspections, in accordance with PHA policy. This part contains the PHA's policies governing inspections by the PHA and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by the PHA (including annual self-inspections) and inspections conducted by HUD REAC.

8-II.B. PHA-CONDUCTED INSPECTIONS

The PHA is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Types of PHA-Conducted Inspections

Move-In Inspections **[24 C.F.R. § 966.4(i)]**

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, must be provided to the tenant and retained in the resident file.

Authority Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 C.F.R. § 966.4(i)]

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if they wish, unless the tenant vacates without notice to the PHA. The PHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

Authority Policy

When applicable, the Authority will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 15 calendar days of conducting the move-out inspection.

Self-Inspections [24 CFR 5.707]

Annually all PHAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

The PHA must maintain the results of self-inspections for three years and must provide the results to HUD upon request.

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed within an acceptable time frame.

Authority Policy

Supervisory quality control inspections will be conducted in accordance with the Authority's maintenance plan.

Special Inspections

Authority Policy

Authority staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance

- There is reasonable cause to believe an emergency exists

Other Inspections

Authority Policy

Building exteriors, grounds, common areas and systems will be inspected according to the Authority's maintenance plan.

Notice of Entry

***Non-emergency Entries* (24 C.F.R. § 966.4(j)(1))**

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two (2) calendar days before such entry is considered reasonable advance notification.

Authority Policy

The Authority will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least two (2) weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the Authority to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

***Emergency Entries* (24 C.F.R. § 966.4(j)(2))**

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the PHA must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of PHA-Conducted Inspections

Authority Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the Authority at least 24 hours prior to the scheduled inspection. The Authority will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The Authority may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections. (24 C.F.R. § 966.4(i)) There is no such requirement for other types of inspections.

Authority Policy

While the resident is required to be present for move-in inspections, the resident is not required to be present for other types of inspections. The resident may attend the inspection if they wish.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

Repairs

Correction timeframes differ depending on whether repairs are considered emergency or non-emergency repairs.

Emergency Repairs (24 C.F.R. § 966.4(h))

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame. Under NSPIRE, the PHA must correct all Life-Threatening and Severe deficiencies within 24 hours.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs, except that a victim of domestic violence, dating violence, sexual assault, or stalking by a household member or guest shall not be charged for the repairs. If the cause is due to or related to domestic violence, dating violence, sexual assault, or stalking by a household member or guest the PHA may ask for documentation in accordance with VAWA. The PHA may also take lease enforcement action against the family, except that a victim of domestic violence, dating violence, sexual assault or stalking shall not be terminated due to

damages caused by the perpetrator of domestic violence, dating violence, sexual assault or stalking.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodation. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

Non-emergency Repairs

Authority Policy

The Authority will correct deficiencies resulting in non-emergency work order identified during an Authority conducted inspection within 30 calendar days of the submission of the work order. If the Authority is unable to make repairs within that period due to circumstances beyond the Authority's control (e.g. required parts or services are not available, weather conditions, etc.) the Authority will notify the family of an estimated date of completion.

The family must allow the Authority access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Resident-Caused Damages

Authority Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

Authority Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the Authority will provide proper notice of a lease violation.

A re-inspection will be conducted within 30 calendar days to confirm that the resident has

complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence will result in lease termination.

8-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]

During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

Notice to Residents [Notice PIH 2023-16]

The PHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.

Authority Policy

The Authority will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the PHA with a list of Life-Threatening and Severe deficiencies. The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, the PHA must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

Authority Policy

The Authority will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the Authority will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or

the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While the Authority will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, the Authority will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, the Authority will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow the Authority access to the unit to make repairs.

Non-emergency Repairs

Under NSPIRE, the PHA must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

Authority Policy

If the Authority is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond the Authority's control (e.g., required parts or services are not available, weather conditions, etc.), the Authority will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. The Authority will also notify the family of an estimated date of completion.

The family must allow the Authority access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Damage To Tenant's Personal Property

Authority Policy

The Authority is not responsible for loss or damage to personal property in or around the residence. Tenants are strongly encouraged to obtain Renter's insurance at their own expense to protect their property against loss or damage due to fire, flood, theft, vandalism, or other casualty.

Chapter 9

REEXAMINATIONS
(24 C.F.R. §§ 960.257, 960.259, 966.4.)

INTRODUCTION

With the exception of non-public housing over-income families, the PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies (24 C.F.R. § 960.257(c)).

The frequency with which the PHA must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Part V: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I

ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

24 CFR 960.257

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually. (24 C.F.R. § 960.257(a) (1).) With the exception of over-income families, who must have their income reviewed at 12 and 24 months, for families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years. (24 C.F.R. § 960.257(a) (2).) For any non-public housing over income families, the PHA may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

The PHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process. (24 C.F.R. § 960.259.)

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. Chapter 7 contains the PHA's policies related to streamlined income determinations.

This part contains the PHA's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12-month period. (24 C.F.R. § 960.257(a)(1).)

Authority Policy

Generally, the Authority will schedule annual reexaminations to coincide with the

family's anniversary date. The Authority will begin the annual reexamination process approximately 90 calendar days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, the Authority will perform a new annual reexamination, and the anniversary date will be changed.

The Authority may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. The PHA should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination. (Notice PIH 2009-36.)

Authority Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the Authority to request a reasonable accommodation (See Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the Authority in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the Authority will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without Authority approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

Authority Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a PHA-designated reexamination form as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview or any stated deadline must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. Except when using streamlined or safe harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.
A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

Step 2: The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:

- Year-end statements

- Paycheck with year-to-date amounts
- Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

Authority Policy

When income is calculated using a streamlined income determination in accordance with Authority policies in Chapter 7, the above is not applicable. However, where the family disagrees with the Authority's determination of income or the Authority has other reason to use third-party verification in these circumstances, then the above will apply.

9-I.E. OTHER CONSIDERATIONS

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit. (24 C.F.R. § 960.257(a)(4).) Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction. (24 C.F.R. § 5.903(e)(1)(ii).) Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Authority Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant or any member of tenant's household is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

Authority Policy

At the annual reexamination, the Authority will ask whether the tenant or any member of the tenant's household is subject to a lifetime sex offender registration requirement in any state. The Authority will use the National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the

record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13)

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once every 12 months. (24 C.F.R. § 960.257(a)(3).)

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

9-I.E. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information (24 C.F.R. § 960.257(a)(1).)

Authority Policy

An increase or decrease in the tenant rent that results from an annual reexamination or an interim reexamination will take effect 30 calendar days after the Authority has noticed the family of the new rent amount. If less than 30 calendar days remain before the scheduled effective date, the change in tenant rent will take effect on the first of the month following the end of the 30 calendar day notice period.

If the family causes a delay in processing the annual reexamination, ***increases*** in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family causes a delay in processing the annual reexamination, decreases in the tenant will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the Authority by the date specified, and this delay prevents the Authority from completing the reexamination as scheduled.

PART II

REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

[24 CFR 960.253(f)]

9-II.A. OVERVIEW

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.253(f)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 C.F.R. 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the PHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

As it does for families that pay income-based rent, the PHA must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains the PHA's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

Authority Policy

For families paying flat rents, the Authority will conduct a full reexamination of family income and composition once every three years.

However, for flat rent families who become over-income, this policy will not apply. The PHA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

- If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every

three years.

- If determination is as a result of an interim reexamination, the PHA will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

Authority Policy

In conducting full reexaminations for families paying flat rents, the Authority will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.E above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition. ("Annual Update") (24 C.F.R. § 960.257(a)(2).) Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, at 12 and 24 months as applicable.

The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually. (24 C.F.R. § 960.257(a)(2).)

Authority Policy

For families paying flat rents, annual updates will be conducted in each of the two (2) years following the full reexamination.

In scheduling the annual update, the Authority will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition (24 CFR 966.4(c)(2).)

Authority Policy

Generally, the family will not be required to attend an interview for an annual update. However, if the Authority determines that an interview is warranted, in such cases where a member will be added or removed from the lease, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the Authority. The family will have 15 calendar days to submit the required information to the Authority. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The Authority will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, the Authority will send a second written notice to the family. The family will have 15 calendar days from the date of the second notice to provide the missing information or documentation to the Authority.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Authority Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

PART III

INTERIM REEXAMINATIONS

[24 CFR 960.257(b); 24 CFR 966.4; and Notice PIH 2023-27]

9-III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The PHA require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257 (b)(5)].

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

Authority Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within 15 calendar days of the change.

The Authority will conduct interim reexaminations to account for any changes in household

composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition. [24 CFR 966.4(a)(1)(v)].

Authority Policy

The family must inform the Authority of the birth, adoption, or court-awarded custody of a child within 15 calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member (24 C.F.R. § 966.4(a)(1)(v)) or other household member (live-in aide or foster child). (24 C.F.R. § 966.4(d)(3).)

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include (24 C.F.R. § 966.4(d)(3)(i).):

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available;
- The PHA's obligation to make reasonable accommodation for persons with disabilities.

Authority Policy

Families must request Authority approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive calendar days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing, submitted to the Property Office, and approved by the Authority prior to the individual moving into the unit.

Married couples claiming to be separated must present evidence of such and will be evaluated on a case-by-case basis. The Authority may require, but is not limited to, the following information:

1) Court Filing of divorce;
2) Statement from attorney preparing the divorce
3) Tax-returns with filing status;
4) Notarized statements and/or Authority certification(s);

5) Bank Statements;

The Authority will not approve the addition of a new family or household member unless the individual meets the Authority's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the Authority determines that an individual does not meet the Authority's eligibility criteria or documentation requirements, the Authority will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The Property Manager will make the determination within 30 calendar days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

If a family member, live-in aide, foster child or foster adult ceases to reside in the unit, the family must inform the PHA within 15 calendar days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

The resident shall provide satisfactory written proof that the Household Member no longer lives at the residence. Such proof includes, but is not limited to, proof of forwarding address from the U.S. Post Office, copies of a new lease agreement, utility bills or rent receipt for a new residence.

Authority Policy

The Authority will process an interim if the family's adjusted income will decrease as a result of a family member permanently moving out of the unit.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609 (c)(1)]. Policies for projecting income are found in Chapter 6.

Authority Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

> **Authority Policy**
> The Authority will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

Authority Policy

When a family reports an increase in their earned income between annual reexaminations, the Authority will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The Authority will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The Authority will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the Authority policies in Chapter 15.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing

families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

Family Reporting

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

Authority Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 15 calendar days of the date the change takes effect. The family may notify the Authority of changes either orally or in writing. If the family provides oral notice, the Authority may also require the family to submit the changes in writing.

Within 15 calendar days of the family reporting the change, the Authority will determine whether the change will require an interim reexamination.

- If the change will not result in an interim reexamination, the Authority will note the information in the tenant file but will not conduct an interim reexamination. The Authority will send the family written notification within 15 calendar days of making this determination informing the family that the Authority will not conduct an interim reexamination.

- If the change will result in an interim reexamination, the Authority will determine the documentation the family will be required to submit based on the type of change reported and Authority policies in Chapter 7. The Authority will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 15 calendar days of receiving a request from the Authority. This time frame may be extended for good cause with Authority approval. The Authority will accept required documentation by mail, email, fax, or in person. The Authority will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the Authority determines that an interview is warranted, the family may be required to attend.

9-III.D. EFFECTIVE DATES

Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.

Authority Policy

If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

Authority Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the Authority will apply the decrease the first of the month following completion of the interim reexamination.

However, the Authority will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to Authority management operations. The Authority will decide to apply decreases retroactively on a case-by-case basis.

When the Authority applies the results of interim decreases retroactively, the Authority will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with Authority policies.

PART IV

RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes (24 C.F.R.§ 966.4, 960.257.) While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES (24 C.F.R. §§ 965.507, 966.4.)

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule (24 C.F.R. § 960.253(c) (3).) Chapter 16 discusses how utility allowance schedules are established.

Authority Policy

Unless the Authority is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the PHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective. (24 C.F.R. § 966.4(b) (1) (ii).)

When the PHA re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure (24 C.F.R. § 966.4(c)(4).)

Authority Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the

overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

PART V: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27]

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA-published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

Ruby:	Georgia:
Wages: $30,000	SSI: $10,980 ($915 monthly)

The EIV report pulled on 12/15/2023

Ruby:	Georgia:
Wages Total: $33,651	SSI Total: $10,980
Quarter 3 of 2023: $8,859 (City Public School)	2023 benefit $915 monthly
Quarter 2 of 2023: $8,616 (City Public School)	
Quarter 1 of 2023: $8,823 (City Public School)	
Quarter 4 of 2022: $7,353 (City Public School)	

Income Reported on Reexamination Application

Ruby:	Georgia:
Wages at City Public School: $32,000 (switched jobs but no permanent change to amount)	SSI benefits: $10,980 (no changes)
Calculating Ruby's wages: Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: $33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the $33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use $33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no	Calculating Georgia's SSI benefit: Step 1: Determine the prior annual income from EIV (i.e., $915 x 12 months: $10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual

additional changes to annual income.	reexamination: COLA: $64.05 ($915 x 0.07) New gross SSI benefit: $11,748.60 ($979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.	
Summary of Annual Income (as reported on the HUD-50058)	
Ruby (Head of Household): Other Wage: $33,651 Myers Family Total Annual Income: $45,399	Georgia (Other Youth Under 18): SSI: $11,748

Example 2: Calculating Annual Income at Annual Reexamination Using EIV: Family Disagrees with EIV

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from $28,000 to $7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.
5/1/2023 Annual Reexamination
Wages: $28,000

The EIV report pulled on 1/15/2024

Wages Total: $18,271

Quarter 3 of 2023: $2,500 (Viking Bakery)

Quarter 3 of 2023: $796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: $1,300 (Sasha's Sweets)

Quarter 2 of 2023: $584 (Larry's Concessions)

Quarter 2 of 2023: $2,401 (Viking Bakery)

Quarter 1 of 2023: $6,500 (Sasha's Sweets)

Quarter 4 of 2022: $600 (Sasha's Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application
Wages: $0 (permanent change; no longer receiving) Social Security: $14,400 ($1,200 monthly) Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of $18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of $1,200 effective 3/1/2024.
Calculating Wages and SS Benefit
Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: $18,271) Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to $7,500. Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all. Process the annual reexamination effective 5/1/2024 using annual SS income of $14,400 and $0 wages.
Summary of Annual Income (as reported on the HUD-50058)
Paul (Head of Household): $14,400 (SS) Hewson Family Total Annual Income: $14,400

Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from $200 to $100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.
Last reexamination – 11/1/2023 Annual Reexamination

Samantha:	Fergus:
Business income: $28,000	Wages: $8,250
VA disability pension: $12,000	Other non-wage income: $3,000 (Go Fund Me online fundraiser)
Child support: $2,400	

The EIV report pulled on 9/16/2024

Samantha:	Fergus:
Wages Total: $0 (no wage data reported since Q1 2023)	Wages Total: $8,600 Quarter 1 of 2024: $2,100 (Ian's Fish 'n' Chips) Quarter 1 of 2024: $500 (Claire's Healthcare Supplies) Quarter 4 of 2023: $1,000 (Claire's Healthcare Supplies) Quarter 3 of 2023: $1,800 (The Onion Garden Shop) Quarter 2 of 2023: $3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:	Fergus:
Business income: $28,750 (last year); has decreased to $18,000 (permanent change) VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change) Child support: $2,400 (last year); has decreased to $1,200 (permanent change)	Wages: $6,000

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., $28,000 on last HUD–50058.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., $12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was $1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of $1,025, or $12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 ($12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., $2,400 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from $200 to $100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular $100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 ($1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: $8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported $6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of $7,800 based on the two paystubs for this employer, and EIV shows $8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the $6,000 annual income Fergus reported, and the $7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of $9,000.

The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn $9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 ($9,360 in this example).

Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., $3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income.

The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of $0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household): Own business: $18,000 Pension: $12,300 Child support: $1,200	Fergus (Co-head): Wages: $9,360
Poole Family Total Annual Income: $40,860	

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

The Authority has a no pet policy for family properties. The Authority allows common household pets in properties designated for elderly or disabled persons in accordance with the Authority established pet polices stipulated in this chapter. In specific, pre-approved, circumstances, a resident residing in a family property may house a pet if:

- Requested as an assistance animal as defined below and defined in California Health and Safety Code section 50685.5 or;
- The household had the Pet registered with the Authority prior to October 1, 2015

This chapter explains the Authority's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the Authority to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the Authority.

The chapter is organized as follows:

Part I: Service Animals and Assistance Animals. This part explains the difference between service animals, assistance animals and pets and contains policies related to the designation of a service animal or assistance animal as well as their care and handling.

Part II: Pet deposits and fees for Pets registered with the Authority prior to October 1, 2015. This part contains policies for pet deposits and fees that remain applicable to Pet owners.

Part III: Pet policies for all developments. This part contains pet policies that apply to all developments.

PART I

SERVICE ANIMALS AND ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705; Notice FHEO 2020-01]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal, including service and support animals, may be denied, and also establishes standards for the care of assistance animals.

Notice FHEO 2020-01 was published January 28, 2020. The notice provides guidance to help PHAs and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies. FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals. The guidance in FHEO 2020-01 should be read together with HUD's regulations prohibiting discrimination under the Fair Housing Act (FHA) and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act. Housing providers may also be subject to the Americans with Disabilities Act (ADA) and should therefore refer also to DOJ's regulations implementing Titles II and III of the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on assistance animals.

There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (i.e., support animals).

Assistance animals, including service and support animals, are not pets and thus are not subject to the PHA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

10-I.B. APPROVAL OF SERVICE ANIMALS AND ASSISTANCE ANIMALS

Notice FHEO 2020-01 states that PHAs should initially follow the Department of Justice (DOJ) analysis to assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA). Under the ADA, a *service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:

- Is the animal a dog? If not, the animal is not a service animal but may be another type of assistance animal for which an accommodation is needed (support animal).
- Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of the individual with a disability? If yes, further inquiries are inappropriate because the animal is a service animal. If not, it is advisable that the PHA limit its inquiries to the following two questions: (1) Is the animal required because of the disability? and (2) What work or task has the animal been trained to perform?

  If the answer to question (1) is "yes" and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable. If the answer to either question is "no," the animal does not qualify as a service animal but may be a support animal.

A service animal must be permitted in all areas of the facility where members of the public are allowed.

Support Animals (Assistance Animals other than Service Animals)

If the animal does not qualify as a service animal, the PHA must next determine whether the animal would qualify as a support animal (other type of assistance animal). If the individual has indeed requested a reasonable accommodation to get or keep an animal in connection with a physical or mental impairment or disability, the PHA may use the following questions to help them assess whether to grant the accommodation in accordance with the policies outlined in Chapter 2 (the PHA is not required to grant a reasonable accommodation that has not been requested):

- Does the person have an observable disability or does the PHA already have information giving them reason to believe that the person has a disability? If not, has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?

- If the person has an observable disability, the PHA already has information giving them reason to believe the person has a disability, or the person has provided information supporting that they have a disability, then has the person provided information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?

- If yes, is the animal commonly kept in households? An *animal commonly kept in households* would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

If the individual is requesting to keep a unique animal not commonly kept in households, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. Such individuals are encouraged to submit documentation from a health care professional.

General Considerations

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and their need for the animal [PH Occ GB, p. 179].

Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the PHA is encouraged to engage in a good-faith dialog with the requestor called the "interactive process" [FHEO 2020-01].

A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

PHAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

Authority Policy

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered a support animal, there must be a person with disabilities in the household, there must be a disability-related need

for the animal, and the family must request and the Authority approve a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority the Authority may have to regulate service animals and assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

Authority Policy

Residents must care for service animals and assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that service animals and assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of a service animal or an assistance animal violates these policies, the Authority will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the Authority determines that no such accommodation can be made, the Authority may withdraw the approval of a particular service animal or assistance animal.

PART II

PET DEPOSITS AND FEES

10-II.A. OVERVIEW

This part describes the PHA's policies for pet deposits. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-II.B. PET DEPOSITS

Payment of Deposit

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

Authority Policy

The Authority has a no pet policy for family properties except in cases where the household had the pet registered with the Authority prior to October 1, 2015. Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is $100.00. This fee does not apply to service or assistance animals.

Refund of Deposit [24 CFR 5.318(d)(1)]

The PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

Authority Policy

The resident must inform the Property Office that the pet has been removed from the unit within 15 calendar days of the removal. The Authority will provide the resident with a written list of any charges against the pet deposit within 15 calendar days of the pet removal inspection. If the resident disagrees with the amount charged to the pet deposit, the Authority will provide a meeting to discuss the charges.

The Authority will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 calendar days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

10-II.C. OTHER CHARGES

Pet-Related Damages During Occupancy

Authority Policy

All reasonable expenses incurred by the Authority as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

Authority Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the Authority may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

PART III

PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-III.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-III.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

Authority Policy

The Authority has a no pet policy for family properties unless the household had the pet registered with the Authority prior to October 1, 2015. Pets must have been registered with the Authority before they were brought onto the premises [24 CFR 960.707(b)(5)].

The tenant must sign a statement acknowledging that they have received and read the Pet Policy located in the Admissions and Continued Occupancy Policy and agrees to comply with it and accept any and all financial and personal liability associated with the personal pet ownership in the housing development.

Registration requires that Documentation be provided to verify all of the following: includes

a. Current license

b. Verification of health, proof of spay or neuter and current shot record in accordance with San Francisco local requirements, which includes but is not limited to a rabies vaccination, including parvovirus, distemper, hepatitis, leptospirosis, feline distemper, rhino tracheitis, calcivirus, and pneumonitis must be provided.

c. Verification that the pet has no communicable disease(s) and is pest-free

d. Color picture at time of application and again at adulthood

e. A full color picture of aquarium, fish and description of fish types is required.

f. Registration MUST be updated annually to be consistent with the annual recertification date;

Refusal to Register Pets

The Authority will refuse to register a pet if:

- The pet in a family development was not registered with the Authority prior to October 1, 2015.
- The pet is not *a common household pet* as defined in Section 10-III.C. below.
- Keeping the pet would violate any pet restrictions listed in this policy.
- The pet owner fails to provide complete pet registration information or fails to update the registration annually.
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order.
- The Authority reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the Authority refuses to register a pet, a written notification will be sent to the pet owner within 15 calendar days of the Authority's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the Authority's grievance procedures.

Pet Agreement

Authority Policy

Residents who have been approved to have a pet must enter into a pet agreement with the Authority, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that they have received a copy of the Authority's pet policy and applicable house rules, that they have read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that they understand that noncompliance with the Authority's pet policy and applicable house rules may result in the withdrawal of Authority approval of the pet or termination of tenancy.

10-III.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal.
- Requiring pet owners to have their pets spayed or neutered

PHA's may not require pet owners to have any pet's vocal cords removed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

Authority Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

- Reptiles
- Rodents
- Insects
- Arachnids
- Wild animals or
- Feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

Pet Restrictions

Authority Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

Any animal not permitted under state or local law or code

Number of Pets

Authority Policy

Residents may own a maximum of two (2) pets, and one (1) fish aquarium.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to ten (10) gallons.

Other Requirements

Authority Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 calendar days of the pet reaching six (6) months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

A color photograph of the pet, except for fish, must be provided at the time of application and when the pet reaches adult size.

10-III.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with PHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

Authority Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Cleanliness

Authority Policy

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by the Authority.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

Authority Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

Authority Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

Authority Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage Authority property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

Authority Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the Authority and sign a statement that they agree to abide by all of the pet rules. The resident must specify the time period for which they will be caring for the other residents pet.

Pets Temporarily on the Premises

Authority Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations and approved by the Authority.

Pet Rule Violations

Authority Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable

agency for investigation and enforcement. This includes:

- Pets left unattended for a period of twenty-four (24) hours or longer, wherein the Authority may enter the dwelling unit to remove the pet;
- Management determines that het pet is not properly cared for;
- The pet presents a threat to the safety and security of other tenants, Authority employees, contractors and others on the premises;
- The pet is destructive or causes an infestation;
- The pet disturbs other tenants for reasons including but not limited to noise, odor, cleanliness, and sanitation; or
- Tenant fails to re-validate the pet ownership permit as required in the Pet Ownership Policy.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served in accordance with Chapter 13 of this ACOP.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 30 calendar days from the effective date of the service of notice to cure the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of his or her choice at the hearing.

That the pet owner's failure to correct the violation, request a grievance hearing, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

Pet Removal

Authority Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the Authority after reasonable efforts cannot contact the responsible party, the Authority may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

Authority Policy

The Authority may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

Authority Policy

The Authority will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the Authority to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and PHA policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self- sufficiency.

Part II: PHA Implementation of Community Service. This part provides PHA policy regarding PHA implementation and program design.

PART I

COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the PHA Plan must contain a statement of how the PHA will comply with the community service requirement, including any cooperative agreement that the PHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of the PHA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs)
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance. [Notice PIH 2015-12]

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability the individual is unable to comply with the service

provisions

- Is a primary caretaker of such an individual
- Is engaged in work activities

Authority Policy

The Authority will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program
- This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)

- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

PHAs may form their own policy in regards to accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

Authority Policy

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]

- For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families. Note: Per Notice PIH 2015-12, HUD has determined that the Supplemental Nutrition Assistance Program (SNAP)_ qualifies as a welfare program of the state. Therefore, if a tenant is a member of a family receiving assistance under SNAP and has been found by the administering State to be in compliance with the program requirements, that tenant is exempt from the CSSR.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes

- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program

Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12]

The PHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for PHA verification of exempt status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-15, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirements.

Authority Policy

The Authority will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self- certification forms are subject to review by the Authority.

On an annual basis, at the time of lease renewal, the Authority will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The PHA must review and verify family compliance with service requirements annually at least thirty (30) calendar days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

Authority Policy

Where the lease term does not coincide with the effective date of the annual reexamination, the Authority will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the Authority will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

Authority Policy

At least 60 calendar days prior to lease renewal, the Authority will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the Authority has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the Authority will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

The PHA must review resident family compliance with service requirements annually at least 30 calendar days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the PHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

Authority Policy

Approximately 60 calendar days prior to the end of the lease term, the Authority will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 15 calendar days to submit the Authority required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or Authority approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status between Annual Determinations

Authority Policy

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the twelve month lease term, it is the family's responsibility to report this change to the Authority within 15 calendar days.

Within 15 calendar days of a family reporting such a change, or the Authority determining such a change is necessary, the Authority will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30-day notice.

Determination of Initial Compliance

When an adult family member becomes subject to community service, they must perform 8 hours of community service for the months they are subject to the requirement before the end of the lease term (anniversary date).

Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve-month lease term, it is the family's responsibility to report this change to the PHA within 15 calendar days. Any claim of exemption will be verified by the PHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 15 calendar days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide the family written notice that the family member is no longer subject to the community service requirement, if the PHA is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c) (4), 960.607, Notice PIH 2016-06]

The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

Authority Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The Authority will provide a completed copy to the family and will keep a copy in the tenant file.

The Authority will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The Authority makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the Authority's determination, s/he can dispute the decision through the Authority's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the PHA of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12].

If qualifying community service activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide documentation required by the PHA. The PHA may require a self-certification or certification form a third party. [24 CFR 960.607].

If the PHA accepts a self-certification of compliance with the community service requirement, it must provide a form which includes a statement that the client performed he required hours, contact information for the community service provider, a description of activities performed and dates of service.

If the PHA accepts a self-certification, it must validate a sample of certification through third- party documentation using the sample sizes listed in Attachment C of Notice PIH 2016-06. The PHA must notify families that self-certification forms are available and that a sample of self-certifications will be validated. HUD strongly encourages PHAs to investigate community service compliance when there are questions of accuracy.

Authority Policy

Each individual who is subject to the community service requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to the Authority, upon request by the Authority at least annually.

If the Authority has reasonable cause to believe that the certification provided by the family is false or fraudulent, the Authority has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Noncompliant Residents

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of

tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

PHA may not evict a family due to CSSR noncompliance. However, if the PHA finds a tenant is noncompliant with CSSR, the PHA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR
- A statement that the PHA will not renew the lease at the end of the current 12 month lease term unless the tenant enters into a written work=out agreement with the PHA or the family provides written assurance that is satisfactory to the PHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement. [24 CFR 960.607(c), Notice PIH 2015-12].

The notice must also state that the tenant may request a grievance hearing on the PHA's determination, in accordance with the PHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of the PHA's determination.

Authority Policy

The notice of initial noncompliance will be sent at least 45 calendar days prior to the end of the lease term.

The family will have 15 calendar days from the date of the notice of noncompliance to enter into a written work-out agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the Authority will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the Authority will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]

Should a family member refuse to sign a written work-out agreement or fail to comply with the terms of the work-out agreement, PHAs are required to initiate termination of tenancy proceedings at the end of the current 12-month lease (24 CFR 966.53 (c)) for failure to comply with the lease requirements. When initiating termination of tenancy proceedings, the PHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for no-renewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross examine witnesses and present any affirmative legal or equitable defense which the tenant may have, and:
- A decision on the merits

Authority Policy

Notices of continued noncompliance will be sent at least 30 calendar days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 15 calendar days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the Authority will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II

IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each PHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the PHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

PHA Implementation of Community Service

The PHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

Authority Policy

The Authority will notify its insurance company if residents will be performing community service at the Authority. In addition, the Authority will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, the AUTHORITY will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

PHA Program Design

The PHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

Authority Policy

The Authority will attempt to provide the broadest choice possible to residents as they choose community service activities.

The Authority's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills.
The Authority will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

The Authority will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the Authority will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the Authority Plan.

The Authority will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

When the Authority has a ROSS program, a ROSS Service Coordinator, or an FSS program, the Authority will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with Authority coordinators will satisfy community service activities and Authority coordinators will verify community service hours within individual monthly logs.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

Note: Political activity is excluded.

Self-Sufficiency Activities – self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), , or reading, financial, or

computer literacy classes

- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability they are unable to comply with the service provisions, or is the primary caretaker of such an individuals
- Is engaged in *work activities*
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.
- PHA can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.

Work Activities – as it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)

- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of childcare services to an individual who is participating in a community service program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.

2. At least eight (8) hours of activity must be performed each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance.

3. Family obligation:

    - At lease execution, all adult members (18 or older) of a public housing resident family must:
        - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
        - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
    - Upon written notice from the PHA, nonexempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
    - If a family member is found to be noncompliant at the end of the 12-month lease term, the party, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.
    - At annual recertification, the family must also sign a certification certifying that they understand the community service requirement.

4. Change in exempt status:

    - If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is his or her responsibility to report this to the PHA and provide documentation of

exempt status.

- If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is his or her responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the PHA will:

   - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
   - Provide in-house opportunities for volunteer work or self-sufficiency activities.

2. The PHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.

3. Although exempt family members will be required to submit documentation to support their exemption, the PHA will verify the exemption status in accordance with its verification policies. The PHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the PHA's grievance procedure if they disagree with the PHA's determination.

4. Noncompliance of family member:

   - At least thirty (30) calendar days prior to the end of the 12-month lease term, the PHA will begin reviewing the exempt or nonexempt status and compliance of family members;
   - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the PHA finds the family member to be noncompliant, the PHA will not renew the lease unless:
     - The head of household and any other noncompliant resident enter into a written agreement with the PHA, to make up the deficient hours over the next twelve (12) month period; or
     - The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
   - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that

the noncompliant family member no longer resides in the unit;

- The family may use the PHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident	Date
Resident	Date
Resident	Date
Resident	Date

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(I)(L) AND SECTION 1416(EXCERPT) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. *[42 U.S.C. 1382c]* (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

EXHIBIT 11-3: SFHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the Authority's community service requirement for the following reason:

- ❒ 62 years of age or older *(Documentation of age in file)*
- ❒ Is a person with disabilities and self-certifies below that they are unable to comply with the community service requirement (*Documentation of HUD definition of disability in file)*

  Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

  _____ _____

  Signature of Family Member Date

- ❒ Is the primary caretaker of such an individual in the above category. *(Documentation in file)*
- ❒ Is engaged in work activities *(Verification in file)*
- ❒ Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the Authority is located, including a state-administered welfare-to-work program (*Documentation in file*)
- ❒ Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare-to-work program and the supplemental nutrition assistance program (SNAP) of the state and has not been found by the state or other administering entity to be in noncompliance with such program *(Documentation in file)*

  _____ _____

  Signature of Family Member Date

  _____ _____

  Signature of SFHA Official Date

EXHIBIT 11-4: CSSR WORK-OUT AGREEMENT

Date: _____

Noncompliant Adult: _____

Adult family member: _____

Community Service & Self-Sufficiency Requirement (CSSR):

Under Section 12 of the U.S. Housing Act, the Housing Authority of the City and County of San Francisco (the Authority) is required to enforce the community service and self-sufficiency requirement (CSSR). Under the CSSR, each nonexempt adult family member residing in public housing must perform 8 hours per month of community service or self-sufficiency activities.

Noncompliance: The Authority has found that the nonexempt individual named above is in noncompliance with the CSSR. This work-out agreement is the Authority's written notification to you of this noncompliance.

Our records show that for the most recent lease term you were required to perform _____hours of CSSR activities. However, there were _____hours of verified CSSR activities. Therefore, you are in noncompliance for _____hours.

The Authority will not renew the lease at the end of the current 12-month lease term unless the head of household and noncompliant adult sign a written work-out agreement with the Authority or the family provides written assurance that is satisfactory to the Authority explaining that the noncompliant adult no longer resides in the unit. The regulations require that the work-out agreement include the means through which a noncompliant family member will comply with the CSSR requirement. [24 CFR 960.607(c), Notice PIH 2015-12]. The terms of the CSSR work-out agreement are on the reverse side of this page.

Enforcement: Should a family member refuse to sign this CSSR work-out agreement, or fail to comply with the terms of this CSSR work-out agreement, or fail to provide satisfactory written assurance that the noncompliant adult no longer resides in the unit, the AUTHORITY is required to initiate termination of tenancy proceedings at the end of the current 12-month lease [24 CFR 966.53(c)].

Terms of CSSR Work-Out Agreement

Noncompliant Adult: _____

Please check one of the below boxes:

❒ I, _____[head of household or spouse/cohead] certify that the noncompliant adult named above no longer resides in the unit. [Verification attached.]

❒ I, the noncompliant adult named above, agree to complete _____hours in the upcoming 12-month lease term. These hours include the _____hours not fulfilled in the most previous lease term, plus the 96 hours for the upcoming lease term.

Below is a description of means through which I will comply with the CSSR requirement:

	Description of Activity	**Number of Hours**
1.		
2.		
3.		
4.		
5.		
	Total Hours	

SIGNED AND ATTESTED THIS DATE

Signature: _____ *Date:* _____
Head of Household

Signature: _____ *Date:* _____
Noncompliant Adult, if other than Head of Household

Signature: _____ *Date:* _____

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the PHA's transfer policy, based on HUD regulations, HUD guidance, and PHA policy decisions.

This chapter describes HUD regulations and PHA policies related to transfers in three parts:

Part I: Transfers. This part provides an overview of Transfers.

Part II: Emergency Transfers. This part describes emergency transfers and emergency transfer procedures.

Part III: PHA Required Transfers and Non-Emergency Transfers. This part describes types of transfers that may be required by the PHA, requested by the residents, eligibility requirements, and processing.

The PHA may require the tenant to move from the unit under specific circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided that may require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

PART I: TRANSFERS

12-I.A. OVERVIEW

The Authority does not transfer any family to any particular apartment, community, neighborhood or development because of race, color, sex, religion (creed), disability, familial status, national origin, ancestry, sexual orientation, marital status, source of income, or age.

Site managers shall administer occupancy transfers in such a manner as to minimize vacancy loss, minimize the time families are over housed or under housed (as determined under the Authority's occupancy guidelines), and still provide housing opportunities for new admissions.

PART II: EMERGENCY TRANSFERS

12-II.A. EMERGENCY TRANSFERS

Authority Policy

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance Conditions

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours, make the unit uninhabitable and were not caused by the resident family or their guest. Examples of an uninhabitable unit may include a unit affected by a flood, fire, and natural disaster.

Verified Medical Condition

To alleviate a doctor verified medical condition which is imminently life threatening or seriously impairs the health of the Resident or a Household Member (i.e. lead poisoning or amputation); or

Threat of Real and Imminent Criminal Attack

To protect a Resident or a Household Member from a factually verifiable or documented threat of real and imminent criminal attack that is specifically directed towards that Resident, Household Member or other occupant of the Residence. In making such a determination, the Executive Director or their designee may consider facts and circumstances including, but not limited to, recommendations by the District Attorney or a sworn peace officer with a rank equivalent to an San Francisco Police Department (SFPD) Detective II or higher attesting to the factual need for a transfer.

Civil Rights Violation: Pattern of Physical and/or Extreme or Repeated Verbal Harassment

A public housing tenant who is the victim of physical harassment and/or extreme or repeated verbal harassment, which cannot be remedied in other ways, such as by eviction of the people responsible for harassment or other action, may qualify for a transfer to another unit within the development or to another public housing development, or other appropriate subsidized housing program.

Domestic Violence, Dating Violence, Sexual Assault, or Stalking.

A resident or household member reasonably believes that they are threatened with imminent physical or emotional harm due to their being a victim of domestic violence, dating violence, sexual assault or stalking, or in the case of a tenant who is the victim of sexual assault, the sexual assault occurred on the premises during the 90 calendar day period preceding the request for transfer. See Exhibit 12-I.

The Authority will not approve an emergency transfer if the transfer will not resolve the emergency situation. If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the Authority must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

An emergency transfer is a transfer determined at the sole discretion of the Executive Director, or his/her designee and will be reviewed on a case-by-case basis.

12-II.B. REQUEST AND APPROVAL OF EMERGENCY TRANSFERS

Authority Policy

All requests for transfer must be submitted, in writing, to the Public Housing Manager. Requests will be reviewed by the Public Housing Director or their designee who will determine the appropriate category of transfer and render a decision within 15 calendar days of its receipt. If the appropriate documentation is not submitted with the initial application the request will be denied. The tenant will have 30 calendar days from the date of denial to provide the missing documentation for a second review of the request. If no further documentation is submitted within 30 calendar days, the request will be considered closed and no further action will be taken.

At the termination of the 30 calendar days, a new request will have to be submitted for a request for transfer. If the tenant provides additional documentation within 30 calendar days, the request will be reviewed again and designated into the appropriate category or denied. The Authority will send the determination to the tenant within 15 calendar days and place the tenant on the appropriate waiting list.

Transfers shall not be deemed to waive an existing breach of the Rental Agreement by the Resident; and the Authority may pursue, or continue to pursue, any legal action and remedy against the Resident as if no transfer had been made regardless of whether the unit being transferred to is owned and managed by the Authority or not.

Authority Policy

Documentation Required for the Emergency Transfer Categories:

Any two of the following must be submitted:

(1) a document signed under penalty of perjury by the tenant and a staff/volunteer of a victim service provider, an attorney, or a medical/mental health professional from whom the tenant has sought assistance;

(2) a record of a public law enforcement agency, court or administrative agency; or

(3) a statement or other evidence provided by the tenant in accordance with 42 U.S.C.§ 14043-11(c)(3).

For VAWA tenants requesting an Emergency Transfer only:

A tenant can certify that he or she is a victim by providing any one of the following three documents:

(1) A completed, signed HUD-approved certification form. The most recent form is HUD-5382. This form is available at the housing authority or online at https://portal.hud.gov/hudportal/documents/huddoc?id=5382.docx.
(2) A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.
(3) A police or court record, such as a protective order, or administrative record.

Emergency Transfer Timing and Availability

The Authority cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The Authority will, however, act as quickly as possible to move a tenant who is approved of an emergency transfer, including a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The Authority may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the Authority has no safe and available units for which a tenant who needs an emergency is eligible, the Authority will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the Authority will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

HOPE VI Transfer Policy

HOPE VI sites may transfer tenants within the same development without need of approval by the Authority. Upon transfer of any resident within a development, the developer/manager must inform the Authority within seven (7) calendar days of the transfer who was moved, what unit they were moved from, and what unit they were moved into.

12-II.C. EMERGENCY TRANSFER LOCATIONS

Authority Policy

The Authority shall have sole discretion in determining whether an emergency transfer shall be a temporary housing accommodation or whether the transfer is permanent. When a transfer becomes permanent, the tenant, at the Authority's discretion, may be required to enter into a lease agreement within 30 calendar days of being notified that the unit will be a permanent placement.

12-II.D. EMERGENCY TRANSFER PLACEMENT

Authority Policy

Emergency transfers have priority over all other transfers with verified medical needs having the highest priority. Those approved for an emergency transfer shall be concurrently offered one unit, if available, of suitable bedroom size at one different development. The developments containing the unit offered, shall be that with the most vacancies that meet the family's bedroom requirements, except units within the development that the family currently occupies shall not be offered or counted as being offered.

The family will have no more than five (5) calendar days of notice of the unit's availability to inspect the units and accept an offer. Should the family accept the offer, the family will have seven (7) calendar days from the date of acceptance to completely vacate the unit being transferred from and move into the unit being transferred to.

The Authority will determine when the unit is ready for move in. If the unit is not yet ready at the time of acceptance, then the family shall have seven (7) calendar days from the time the unit is ready, and the family is notified of availability for occupancy to move in. Failure to do so will be deemed to have rejected the emergency transfer offer. Should the family fail to affirmatively accept the offer without good cause, the Resident will be deemed to have rejected the offer and the Authority shall have no further obligation to offer additional units and the tenant will be removed from the waiting list.

12-II.E. EMERGENCY CAUSED BY RESIDENT, HOUSEHOLD MEMBER, OR GUEST OF RESIDENT'S FAMILY

Authority Policy

If the Authority determines that the Resident, Household Member, or a guest of the Resident's family created or caused the emergency, the Resident shall reimburse the Authority for any and all costs connected with the move.

PART III: NON-EMERGENCY TRANSFERS

12-III.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the PHA to develop reasonable transfer policies. All other transfer request are at the discretion of the PHA.

12-III.B. NON-EMERGENCY TRANSFERS

Authority Policy

The Authority is not accepting non-emergency transfers. Any request for transfers that are not designated an "Emergency" will be denied. Upon denial the tenant will have 30 calendar days to provide additional documentation that may change the transfer designation. No response within 30 calendar days will result in a final denial. A response providing requested documentation within 30 calendar days will be reviewed with the original transfer request and a designation will be made within 15 calendar days of the PHA's receipt of the updated documentation.

HOPE VI Policy

HOPE VI sites may transfer public housing residents within the building withough prior approval from the Authority. Any public housing transfers outside the building must follow the Authority transfer process outlined in Chapter 12.

12-III.C. TYPES OF PHA REQUIRED TRANSFERS

Authority Policy

The types of transfers that may be required by the Authority, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the Authority are mandatory for the tenant.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the PHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

Authority Policy

When a non-accessible unit becomes available, the Authority will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The Authority may wait until a disabled resident requires the accessible unit

before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

The PHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to PHA policy [24 CFR 960.257(a)(4)]. On some occasions, the PHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

Authority Policy

The Authority will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the Authority's occupancy standards as described in Section 5-I.B.

The Authority may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the Authority's occupancy standards, when the Authority determines there is a need for the transfer.

The Authority may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the Authority that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit the PHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

Authority Policy

These transfers permit the Authority to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

The Authority will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The Authority's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under the Uniform Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-III.D. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A PHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the PHA may not take action on the transfer until the conclusion of the grievance process. (See chapter 14 for grievance procedures.)

12-III.E. ELIGIBILITY FOR TRANSFER(s)

The PHA may establish standards for considering a transfer request. [PH Occ GB, p. 150].

Authority Policy

All Resident requested transfers shall be in writing and submitted to the site management office on a designated form, which shall be available online at www.sfha.org and in hard copy at 1815 Egbert Avenue, San Francisco, California 94124. the Authority will consider the following:

- Does tenant or any Household Member have a record of creating a nuisance, disturbing any other resident or interfering with staff;
- Currently owes back rent or other charges and is not current in a repayment agreement or is not in a repayment agreement;

- Is under the threat of eviction;
- Is under the initial term of a lease (resided in the location for one (1) year;
- Has a poor payment record (a "poor payment record" means the Resident has failed to pay all rent on or before the fifth of each and month or has failed to pay all charges when due); or
- Has failed a housekeeping inspection.

The Public Housing Director or his/her designee may waive the one-year residency requirement to reduce vacancies.

Public Housing Resident Transfer List Preferences (Order of Moves)

Reasonable Accommodations	Exhaust list
Emergency Transfers	First 5
Waiting List in Order of Preference	Next 5

Note: The Authority has the discretion to move emergency and administrative transfers as deemed necessary.

EXHIBIT 12-1: VAWA EMERGENCY TRANSFER

In accordance with the Violence Against Women Act (VAWA),[3] the Authority allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.[4] The ability of the Authority to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the Authority has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar- day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may qualify for an emergency transfer if they meet the eligibility requirements in this section. A tenant is not in good standing if they owe a debt to the Authority, are not current on a repayment agreement, have been served with a legal notice within the previous 30 days or have an Unlawful Detainer action that has been filed against their household.

Confidentiality of VAWA Clients

The Authority will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless (1) the tenant gives the Authority written permission to release the information on a time limited basis; (2) disclosure of the information is required by law or (3) disclosure is required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against

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[3] Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[4] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Women Act For All Tenants for more information about the Authority's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

EXHIBIT 12-2: SAMPLE NOTICE TO LOW INCOME PUBLIC HOUSING PROGRAM PARTICIPANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your obligations under VAWA.

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

You cannot evict a tenant who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, sexual assault, or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household

You may bifurcate (split) the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the unit. If you choose to remove the abuser, you may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to

provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

(1) A completed, signed HUD-approved certification form. The most recent form is HUD-5382. This form is available at the housing authority or online at https://portal.hud.gov/hudportal/documents/huddoc?id=5382.docx.

(2) A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both the victim and the professional must sign the statement under penalty of perjury.

(3) A police or court record, such as a protective order, or administrative record.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

a. The tenant provides written permission to release the information.
b. The information is required for use in an eviction proceeding, such as evicting the abuser.
c. Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.

Additional Information

If you have any questions regarding VAWA, please contact 415-715-5200.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines domestic violence to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse or intimate partner of the victim
- A person with whom the victim shares a child in common
- A person who is co-habitating with or has co-habitated with the victim as a spouse or intimate partner

VAWA defines sexual assault as "any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines stalking as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program. The PHA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by the PHA.

When determining PHA policy on terminations of the lease, the PHA must consider state and local landlord-tenant laws in the area where the PHA is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by the PHA. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the PHA requirements for voluntary termination of the lease by the family.

Part II: Termination by PHA - Mandatory. This part describes circumstances when termination of the lease by the PHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by PHA – Other Authorized Reasons. This part describes the PHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires the PHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the PHA has full discretion whether to consider the options as just cause to terminate as long as the PHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the PHA may consider in lieu of termination, and the criteria the PHA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE (24 C.F.R. § 966.4(k)(1)(ii) and 24 C.F.R. § 966.4(l)(1).)

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or the PHA central office or sent by pre-paid first-class mail, properly addressed.

Authority Policy

If a family desires to move and terminate their tenancy with the Authority, they must give at least 30 calendar days advance written notice to the Authority of their intent to vacate. When a family must give less than 30 calendar days' notice due to circumstances beyond their control the Authority, at its discretion, may waive the 30-day requirement.

The notice of lease termination must be signed by the head of household, spouse, or co-head.

PART II: TERMINATION BY PHA – MANDATORY

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. The PHA must establish policies for termination of the lease in these cases where termination is optional for the PHA.

For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the PHA to terminate the lease.

An arrest must be substantiated by a supporting document of criminal activity. Arrest records or police reports will not be used as the sole basis for evicting tenants.

13-II.B. FAILURE TO PROVIDE CONSENT (24 C.F.R. § 960.259(a) and (b).)

The PHA must terminate the lease if any family member fails to sign and submit any consent form they are required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

Background Checks:

Authority Policy

The Authority may conduct a criminal background check at anytime during a participant or household members tenancy

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP (24 C.F.R.§§ 5.514(c), 5.514 (d); 24 C.F.R. § 960.259(a).)

The PHA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS (24 C.F.R. § 5.218(c), 24 C.F.R. § 960.259(a)(3), Notice PIH 2018-24.)

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

Authority Policy

The Authority will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE PHA'S OFFER OF A LEASE REVISION (24 C.F.R. § 966.4(l)(2)(ii)(E).)

The PHA must terminate the lease if the family fails to accept the PHA's offer of a lease revision to an existing lease, provided the PHA has done the following:

- The revision is on a form adopted by the PHA in accordance with 24 C.F.R. § 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments;
- The PHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect;
- The PHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

13-II.F. METHAMPHETAMINE CONVICTION (24 C.F.R. § 966.4(l)(5)(i)(A).)

The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

13-II.G. LIFETIME REGISTERED SEX OFFENDERS (Notice PIH 2012-28.)

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

Authority Policy

The Authority will provide a 30-Day Notice to Cure or Quit to a household whose address is being used as a mailing address by a registered sex offender. It is the household's responsibility to ensure that their address is not being used by a sex offender pursuant to their lease agreement. Absent proof within 30 calendar days that the address has been changed, the Authority will pursue an eviction action against the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS (24 C.F.R. § 966.4(l)(2)(ii)(D); 24 C.F.R. § 960.603(b); 24 C.F.R. §§ 960.607(b)(2)(ii) and (c).)

The PHA is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.I. DEATH OF A SOLE FAMILY MEMBER (Notice PIH 2012-4)

The PHA must immediately terminate the lease following the death of the sole family member.

13-II.J. OVER INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]

In the public housing program, an *over-income family* is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:

- Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or

- Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

However, a PHA that owns or operates fewer than 250 public housing units may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, the PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.

Authority Policy

For families whose income exceeds the over-income limit (OIL) for 24 consecutive months, the Authority will not terminate the family's tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public housing lease in accordance with the continued occupancy policies below.

Over-Income Limit [Notice PIH 2023-03]

The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

Authority Policy

The Authority will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

Family Size	2024 Over-Income Limits
1	$164, 520
2	$188,040
3	$211,560
4	$234,960
5	$253,800
6	$272,640
7	$291,360
8	$310,200

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

Decreases in Income [24 CFR 960.507(c)(4)]

If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

Authority Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with Authority policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The Authority will notify the family in writing within 30 calendar days of the determination that over-income policies no longer apply to them.

Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices.

Authority Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 30 calendar days of the determination, the Authority will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the Authority's over-income policies. The notice will state that the family may request a hearing if the family disputes the Authority's determination in accordance with Authority policies in Chapter 14. The Authority will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes

when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

Authority Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 30 calendar days of the determination, the Authority will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the Authority's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the Authority's determination in accordance with Authority policies in Chapter 14. The Authority will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27]

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over-income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must

afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

Authority Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, the Authority will notify the family in writing of the determination within 30 calendar days of the date of the determination. The Authority will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments. The notice will state that the family will be charged the alternative non-public housing rent in accordance with Authority continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and the Authority no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within the time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. The Authority will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays the Authority the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. The Authority will not provide such families with hearing or grievance rights.

The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, the Authority may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required to pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the Authority in accordance with HUD regulations. The Authority will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.

If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program.

PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations.

While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must adopt policies concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA lease. In the development of the terms of the lease, the PHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA, with some restrictions, also has the option to terminate the tenancies of families who are over income.

The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS (24 C.F.R. § 966.4(l)(5))

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore PHA policies are needed.

Definitions (24 C.F.R. § 5.100.)

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in section 16-VII.B.

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802.)

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and PHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit (HUD-50058, Instruction Booklet, p. 65.)

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Sexual assault is defined in section 16-VII.B.

Stalking is defined in section 16-VII.B.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On Or Off the Premises (24 C.F.R. § 966.4(l)(5)(i)(B).)

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

Authority Policy

The Authority will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug (24 C.F.R. § 966.4(l)(5)(i)(B))

The lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Authority Policy

The Authority will terminate the lease when the Authority determines that a household member is illegally using a drug or the Authority determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous twelve months.

The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents (24 C.F.R. § 966.4(l)(5)(ii)(A))

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is a ground for termination of tenancy.

Authority Policy

The Authority will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including Authority management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

A record of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

Firearm Policy

The Authority has an important and substantial interest in protecting the health, safety, and welfare of its residents, their guests, its employees, and the public at large while on Authority property.

While Public Housing residents have a second amendment right to bear legal firearms in their public housing unit, the Authority may place reasonable restrictions on these rights for the safety of others.

Authority Policy

The Authority will allow lawful ownership, awful possession and lawful transportation of firearms, ammunition, weapons and other lawful items and devices for which proper registration and/or permits are provided.

Any tenant in lawful possession of a firearm must:

(1) Obtain and provide a "Firearm Safety Certificate" issued by the California Department of Justice ("DOJ"); The "Firearm Safety Certificate" demonstrates basic familiarity with those firearms., including but not limited to, the safe handling and storage of those firearms. Proof of exemption pursuant to California Penal Code section 31700 must be provided if the Firearm Safety Certification was not obtained;

(2) Provide a safe storage space, with a lock, for the lawful firearm;

(3) Provide proof of a firearm safety course having occurred within 90 calendar days of having received for the firearm safety certificate; and

(4) Not sell the firearm unless conducted through a fully licensed California arms dealer.

The "Firearm Safety Certificate;" proof of safe storage and proof of having completed a firearm safety course are required to be submitted to the property office within 100 calendar days of receipt of the Firearm Safety Certificate. These documents shall be stored in the tenant file.

A resident, guest, employee or any other individual or group do not have the right to possess and/or use firearms in the common area of any public housing development. A resident must make available a copy of the permit required by state, federal, or local law upon request when there is reasonable cause to believe that the law or firearms policy has been violated.

Residents may not carry a concealed firearm on their person in public unless they have a valid Carry Concealed Weapon (CCW) license. CCW licenses are issued only by a California county sheriff to residents of the county or the chief of policy to residents of the city. California law does not honor or recognize CCW licenses issued outside this State. (Pen. Code §§ 25400-25700; 26150-26225.)

The Authority has a zero tolerance policy for unlawful weapons. The Authority will terminate the lease if any covered person is found in unlawful possession of firearms in accordance with this chapter. The Authority will take strict lease enforcement action against any tenant, found in unlawful possession of firearms in accordance with this Chapter.

In the event that a firearm is stolen, the resident who is the legal owner must file a policy report and provide a copy of the report, or the incident report number to the Authority property manager within five (5) calendar days of the theft.

Illegal possession, use or sale of a firearm will result in a three (3)-day notice to the household. Removal of the party who had the illegal possession, use or sale of the firearm will not terminate eviction proceedings against the household.

Alcohol Abuse (24 C.F.R. § 966.4(l)(5)(vi)(A).)

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Authority Policy

The Authority will terminate the lease if the Authority determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous twelve months.

The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation (24 C.F.R. § 966.4(l)(5)(vi)(B).)

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

Authority Policy

The Authority will terminate the lease if the Authority determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and

13-III.F. Upon consideration of such alternatives and factors, the Authority may, on a case-by- case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions (24 C.F.R. § 966.4(l)(2)(i); 24 C.F.R. § 966.4(f))

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [24 CFR 5.2005(c)(1)].

Authority Policy

The Authority will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (See Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of the rent or other charges. Four (4) late payments within a twelve (12) month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

- Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member;
- Not to provide accommodations for boarders or lodgers;
- To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose;
- To abide by necessary and reasonable regulations promulgated by the Authority for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease;
- To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;
- To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition;
- To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner;

- To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators;
- To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project;
- To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest;
- To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition.

In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION (24 C.F.R. 966.4(l)(2) and (5)(ii)(B))

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause (24 C.F.R. §§ 966.4(l)(2)(ii)(B); 966.4(l)(2)(ii)(C))

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to only those examples. The Violence against Women Reauthorization Act of 2013 explicitly prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking as "other good cause" for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence (24 C.F.R. § 5.2005(c)(1))

Authority Policy

The Authority will terminate the lease for the following reasons:

- ***Fugitive Felon or Parole Violator***. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

- ***Persons subject to sex offender registration requirement***. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program;
- Discovery of facts after admission to the program that would have made the tenant ineligible;
- Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income;
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the Authority to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size;
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the Authority that such a dwelling unit is available;
- Failure to permit access to the unit by the Authority after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists;
- Failure to promptly inform the Authority of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 15 calendar days of the event;
- Failure to abide by the provisions of the Authority pet policy;
- If the family has breached the terms of a repayment agreement entered into with the Authority;
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises;
- If a household member has engaged in or threatened violent or abusive behavior toward Authority personnel;

  Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

  Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and

13-III.F. Upon consideration of such alternatives and factors, the Authority may, on a case-by- case basis, choose not to terminate the lease.

Family Absence from Unit **(24 C.F.R. § 982.551(i))**

It is reasonable that the family may be absent from the public housing unit for brief periods. Absence in this context means that no member of the family is residing in the unit.

Authority Policy

The family must supply any information or certification requested by the Authority to verify the family is living in the unit, or relating to family absence from the unit, including any Authority-requested information or certification on the purposes of family absences. The family must cooperate with the Authority for this purpose.

The family must promptly notify the Authority when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 15 calendar days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive calendar days, and the family does not adequately verify that they are living in the unit; the Authority will terminate the lease for other good cause.

Abandonment of the unit. If the family appears to have vacated the unit without giving proper notice, the Authority will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the Authority will secure the unit immediately to prevent vandalism and other criminal activity.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member (24 C.F.R. § 966.4(l)(5)(vii)(C))

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with PHA policy.

Additionally, under the Violence against Women Reauthorization Act of 2013, the PHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking.

Authority Policy

The Authority will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon Authority request.

Repayment of Family Debts

Authority Policy

If a family owes amounts to the Authority, as a condition of continued occupancy, the Authority will require the family to repay the full amount or to enter into a repayment agreement, within 30 calendar days of receiving notice from the Authority of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A PHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence (24 C.F.R. § 982.553(c))

For criminal activity, HUD permits the PHA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

Authority Policy

The Authority will use the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances (24 C.F.R.§ 966.4(l)(5)(vii)(B).)
Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the PHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

Authority Policy

The Authority will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property;
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault, or stalking;
- The effects that the eviction will have on other family members who were not involved in the action or failure to act;
- The effect on the community of the termination, or of the Authority's failure to terminate the tenancy;
- The effect of the Authority's decision on the integrity of the public housing program;
- The demand for housing by eligible families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action;
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future;
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

While a record of arrest(s) will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the Authority may obtain the police report associated with the arrest and consider the reported circumstances

of the arrest. The Authority may also consider:

1) Any statements made by witnesses or the participant not included in the police report;
2) Whether criminal charges were filed;
3) Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal;
4) Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity;
5) Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property;
6) In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

Consideration of Rehabilitation (24 C.F.R. § 966.4(l)(5)(vii)(D))

HUD authorizes PHAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

Authority Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the Authority will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose the Authority will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

Reasonable Accommodation (24 C.F.R. § 966.7)

If the family includes a person with disabilities, the PHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with Chapter 24 of the Code of Federal Regulations Part 8.

Authority Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the Authority will determine whether the behavior is related to the disability. If so, upon the family's request, the Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The

Authority will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation (24 C.F.R. § 966.4(l)(5)(vii)(F))

The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of Chapter 24 of the Code of Federal Regulations Part 5.105.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

This section addresses the protections against termination of tenancy that the Violence against Women Reauthorization Act of 2013 (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, or stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination (24 C.F.R. § 5.2005(c))

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking. (FR Notice 8/6/13).

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence. (24 C.F.R. § 5.2005(c)(1); FR Notice 8/6/13.)

Limits on VAWA Protections (24 C.F.R. §§ 5.2005(d), 5.2005 (e); FR Notice 8/6/13)

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual assault, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, or stalking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing

tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm (24 C.F.R. § 5.2005(d)(2) and (e).) In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur;
- The length of time before the potential harm would occur. (24 C.F.R. § 5.2005(e))

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" (24 C.F.R. 5.2005(d)(3).) Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" (24 C.F.R. 5.2005(d)(3))

Authority Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the Authority will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking;
- Whether the threat is a physical danger beyond a speculative threat;
- Whether the threat is likely to happen within a short period of time;
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat.

If the tenant wishes to contest the Authority's determination that they are an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Victim Notification (Notice PIH 2006-42.)

VAWA requires PHAs to notify tenants of their rights under VAWA Notice PIH 2006-42 identifies two ways that a PHA may fulfill this requirement in the event of a termination or start of an eviction proceeding.

It may enclose the form with the termination, however, Notice PIH 2006-42 points out that mailing the certification form in response to an incident could place the victim at risk, since the abuser may be monitoring the mail. In such cases, the notice recommends that PHA's work with tenants to make other delivery arrangements.

Authority Policy

The Authority will follow the lease termination notice policy in section 13-IV.D. If the Authority has reason to suspect that the notice might place victim of domestic violence at risk, it will attempt to deliver the notice by hand directly to the victim. The Authority will use the same caution if it decides to deliver VAWA information to a victim at any other time following an incident of domestic violence.

Victim Documentation (Notice PIH 2006-42.)

VAWA authorizes PHAs responding to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking to request in writing that a tenant complete, sign, and submit a HUD-approved certification form (form HUD-5382).

In lieu of a certification form, or in addition to the certification form, a tenant may provide one of the following:

- A federal, state, tribal, territorial, or local police, court, or administrative record documenting the domestic violence, dating violence, sexual assault or stalking;
- Documentation signed by an employee, agent, or volunteer of a victim service provider; an attorney; medical professional, or a mental health professional from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse, in which the professional attests under penalty of perjury to the professional's belief that the victim has experience an incident of domestic violence, dating violence, sexual assault, or stalking that meets the grounds for protection under the statute.

A PHA is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, sexual assault or stalking in order to receive the protections of VAWA. A PHA may, at its discretion, provide assistance to an individual based solely upon the individual's statement or other corroborating evidence.

VAWA specifies that a victim of domestic violence, dating violence, sexual assault or stalking must provide documentation of abuse within 14 business days after receipt of a written request for such documentation by a PHA. The PHA may extend the time to provide documentation of abuse. If the victim does not provide the documentation within that time frame, or any extension approved by the PHA the victim forfeits the protections against termination afforded by VAWA, and the PHA is free to evict or terminate the assistance of the victim in accordance with otherwise applicable law and lease provisions.

Authority Policy

When a tenant family is facing lease termination because of the actions of a tenant, household member, guest, or other person under the tenants control and a tenant or affiliated individual of the tenant claims that they are the victim of such actions that that the actions are related to domestic violence, dating violence, sexual assault or stalking, the Authority will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state that the Authority may grant a reasonable time extension for the victim to provide documentation and the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking. In lieu of the certification form, the Authority will accept either of the following forms of documentation:

- A police, court, or administrative record documenting the actual or threatened abuse;
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney, mental health, or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the victim has experienced an incident of domestic violence, dating violence, sexual assault, or stalking that meets the grounds for protection under the statute. The victim must also sign the documentation.

The Authority reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 15 calendar days after receipt of the Authority's written request or must request an extension within that time frame. The Authority may, at its discretion, extend the deadline for a reasonable amount of time.

If the individual provides the requested documentation within 15 calendar days, or any Authority-approved extension, the Authority will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 15 calendar days, or any Authority approved extension, the Authority will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP.

Documentation of Abuse (24 C.F.R. § 5.2007)

Authority Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the Authority will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The Authority reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the Authority will document the waiver in the individual's file.

Authority Policy

Refer to Chapter 12 for Emergency Transfer Process.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" (FR Notice 8/6/13.) Moreover, HUD regulations impose on the PHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking (24 C.F.R. § 966.4(e)(9).)

Specific lease language affirming the PHA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of

assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family (FR Notice 3/16/07).

Authority Policy

The Authority will bi-furcate a family's lease and terminate the tenancy of a family member if the Authority determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the Authority will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the Authority by the victim in accordance with this section and section 16-VII.D. The Authority will also consider the factors in section 13.III.E. Upon such consideration, the Authority may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the Authority does bi-furcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, the Authority must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the Authority must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered under VAWA.

PHA Confidentiality Requirements (24 CR 5.2007(a)(1)(v))

All information provided to the PHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking must be retained in confidence and may not be entered into any shared data base and may not be provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

Authority Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the Authority will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

The Authority will not disclose confidential information to any entity or individual except to the extent that the disclosure is:

- Requested or consented to in writing by the individual in a 180 calendar

day time-limited release;

- Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- Otherwise required by applicable law.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS (24 C.F.R. § 5.903(e)(ii) and 24 C.F.R. § 960.259.)

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. PHA policy determines when the PHA will conduct such checks.

Authority Policy

The Authority will conduct criminal records checks when it has come to the attention of the Authority, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The Authority may not pass along to the tenant the costs of a criminal records check.

Fingerprint data results are to be accessed only by individuals with appropriate clearance, access approval or in a clearly identified need-to know situation. The user of said information is to practice extreme discipline in handling and disclosing only the information necessary to execute the assignment. Rank, title and/or position do not qualify individuals as having "need to know" status.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY (24 C.F.R. § 5.903(f); 24 C.F.R. §5.905(d); 24 C.F.R. § 966.4(l)(5)(iv).)

In conducting criminal records checks, if the PHA uses the authority of 24 C.F.R. §§ 5.903, 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases, if the PHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the

PHA must notify the household of the proposed action and must provide the subject of the record a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

Authority Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the Authority will notify the household in writing of the proposed adverse action and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 15 calendar days from the date of the Authority notice, to dispute the accuracy and relevance of the information. If the family does not contact the Authority to dispute the information within that 15-calendar day period, the Authority will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE (24 C.F.R. § 966.4(l)(3); Notice PIH 2021-29)

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the resident's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction (24 C.F.R. § 996.4(m).)

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the PHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the PHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or

employees of the PHA, or for a drug-related criminal activity on or off the premises.

Authority Policy

The Authority will deliver notices in compliance with state law governing service of process of eviction notices.

The Authority may include a copy of the forms HUD-5382 and HUD 5380. Any tenant who claims that the cause for termination involves (a) criminal acts of physical violence against family members or (b) incidents of domestic violence, dating violence, sexual assault, or stalking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in section Chapter 12.

Timing of the Notice (24 C.F.R. § 966.4(l)(3)(i); 24 CFR 966.8; Notice PIH 2021-29)

The PHA must give written notice of lease termination within:

- 14 calendar days in the case of failure to pay rent
- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days).

  If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened.

  If any member of the household has engaged in any drug-related criminal activity or violent criminal activity.

  If any member of the household has been convicted of a felony.

  If any member of the household has engaged in criminal activity that threatens health, safety or right to peaceful enjoyment

Authority Policy

The Authority will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations the Authority will give up to 30 calendar days' written notice in accordance with state or local law.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance (24 C.F.R. §

966.4(l)(2)(ii)(D); 24 C.F.R. § 960.603(b); 24 C.F.R. § 960.607(b))

When the PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant household member must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

Authority Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status (24 C.F.R. §§ 5.514 (c), 5.514 (d))

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. See Chapter 14 for the PHA's informal hearing procedures.

13-IV.E. EVICTION (24 C.F.R. §§ 966.4(l)(4), 966.4(m))

An Eviction begins with a notice to terminate the lease ("Notice"). Reasons for Notice could include, but not be limited to, a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The PHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

Authority Policy

When a family does not vacate the unit after receipt of a notice, by the deadline given in the notice, the Authority will follow state and local landlord-tenant law in filing an

eviction action with the local court that has jurisdiction in such cases.
The Authority may not proceed with terminating the lease if the Authority has not made available the documents to be used in the case against the family and has not afforded the family the opportunity to examine and copy such documents, upon request, in accordance with the provisions of 24 C.F.R. § 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE (24C.F.R. § 966.4(l)(5)(iii)(B))

When the PHA evicts an individual or family for criminal activity, including drug-related criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning record keeping, see the PHA's Record Retention Policy.

EXHIBIT 13-1: SAMPLE NOTICE FOR OVER-INCOME FAMILIES-INITIAL NOTIFICATION FOR NPHOI FAMILY

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

This sample Notice includes provisions required per 24 CFR 960.507 (c).

OVER-INCOME FAMILY
INITIAL NOTIFICATION

Housing Authority of the City and County of San Francisco

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that the Housing Authority of the City and County of San Francisco has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing within 15 calendar days of the date of this notice. If you do not wish to

request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

EXHIBIT 13-2: SAMPLE NOTICE FOR OVER-INCOME FAMILIES-12-MONTH NOTIFICATION FOR NPHOI FAMILY

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These Sample Notices include provisions required per 24 CFR 960.507(c).

OVER-INCOME FAMILY
12 MONTH NOTIFICATION

Housing Authority of the City and County of San Francisco

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that the Housing Authority of the City and County of San Francisco has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-

public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing within 15 calendar days of this notice. If you do not wish to request a hearing, you do not need to do anything at this time.

What about changes to my income?

We will need to re-examine your income in 12 months. After the reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

What if my family remains over-income in consecutive 12 months?

According to the Continued Occupancy Policy, your family may continue your tenancy even if you remain over-income for another 12 months (24 consecutive months total). However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to remain in a public housing unit after the 24-month grace period, you will:

- No longer be a public housing program participant and will therefore not be eligible to participate in the resident council or programs specifically for public housing residents.
- Pay an "alternative non-public housing rent" (currently estimated at $_____)
- Need to sign a new lease

EXHIBIT 13-3: SAMPLE NOTICE FOR OVER-INCOME FAMILIES-24-MONTH NOTIFICATION FOR NPHOI FAMILY

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

These Sample Notices include provisions required per 24 CFR 960.507(c).

OVER-INCOME FAMILY
24 MONTH NOTIFICATION

Housing Authority of the City and County of San Francisco

Resident name:

Address:

Date:

Purpose

The purpose of this notice is to inform you that the Housing Authority of the City and County of San Francisco has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program. However, you do not have to move – see below for details.

What if I disagree that my family is over-income?

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing within 15 calendar days of the date of this Notice.

What about changes to my income?

Changes to your income after you receive this notice will not change our determination. Because your family has been over-income for 24 months, you are no longer eligible for assistance under the public housing program.

What do I need to do now?

According to the Continued Occupancy Policy, your family may continue your tenancy. However, because you will not receive assistance from the federal public housing program, your rent will be calculated differently.

If you choose to remain in a public housing unit, you will:

- Pay an "alternative non-public housing rent" (currently $_____)
- Need to sign a new lease within 60 days or at your next lease renewal (whichever is sooner)

If the lease is not signed within this time period, the Authority must terminate your tenancy no more than 6 months after this notification. However, per Authority policy, the Authority may permit an over-income family to execute the lease after this period (up to 60 days), but before termination of the tenancy. In this case, the family must pay the total difference between the alternative non-public housing rent and your public housing rent dating back to the date when you were required to execute the lease.

If you choose to leave your unit, please inform us as soon as possible according to your existing lease.

To inform the Authority if you do not plan to remain in a public housing unit, contact your onsite property management office to inform them and the Authority of your intent to move.

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to PHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Reviews for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures/Hearings for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

PART I: INFORMAL REVIEWS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the PHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review. HUD regulations do not provide a structure for or requirements regarding informal review for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the PHA policies necessary to respond to applicant appeals through the informal hearing process.

Informal reviews are provided for public housing applicants. An applicant is someone who has applied for admission to the conventional public housing program but is not yet a tenant in the program. Informal reviews are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project (24 C.F.R. § 960.208(a).) Applicants to public housing are not entitled to the same hearing process afforded tenants under the PHA grievance procedure (24 C.F.R. § 966.53(a); PH Occ GB, p. 58.)

Informal reviews provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS (24 C.F.R.§ 5.514)

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulation s as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance (24 C.F.R. § 5.514(d).)

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance;
- The family may be eligible for proration of assistance;
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families; (24 C.F.R. §§ 5.514, 5.518.)
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal;
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal;
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process (24 C.F.R. § 5.514(e).)

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 calendar days from the date of the notification to request an

appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and proof of mailing.

Authority Policy

The Authority will notify the family in writing of the results of the USCIS secondary verification within 15 calendar days of receiving the results.

The family must provide the Authority with a copy of the written request for appeal and proof of mailing within 15 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

Authority Policy

The Authority will send written notice to the family of its right to request an informal hearing within 15 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants (24 C.F.R. § 5.514(f))

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 calendar days of receipt of the PHA notice of denial, or within 30 calendar days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a

reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

Authority Policy

The family will be allowed to copy any documents related to the hearing at a cost of $0.25 per page. The family must request discovery of Authority documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, the PHA is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing

The family is entitled to have the hearing recorded by a digital recorder upon request. A copy of the hearing is available for $5.00.

Authority Policy

The Authority will not provide a transcript of an audio taped informal hearing.

Hearing Decision

The PHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 15 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents (24 C.F.R. § 5.514(h).)

The PHA must retain, for a minimum of four (4) years, the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance;
- The form completed by the family for income reexamination;
- Photocopies of any original documents, including original USCIS documents;
- The signed verification consent form;
- The USCIS verification results;
- The request for a USCIS appeal;
- The final USCIS determination;
- The request for an informal hearing;
- The final informal hearing decision;

Informal Hearing Procedures for Residents (24 C.F.R. § 5.514(f))

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 calendar days of receipt of the PHA notice of termination, or within 30 calendar days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES/HEARINGS FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS (24 C.F.R. § 966.52)

The PHA must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any PHA action or failure to act involving the lease or PHA policies which adversely affect their rights, duties, welfare, or status. The PHA must not only meet the minimal procedural due process requirements provided under the regulations but must also meet any additional requirements imposed by local, state or federal law.

The PHA grievance procedure is included in, or incorporated by reference in, the lease agreement.

Authority Policy

The Authority must provide at least 30 calendar days' notice to tenants and public housing resident organizations setting forth proposed changes in the Authority grievance procedure, and providing an opportunity to present written comments. Comments submitted by residents must be considered by the Authority before adoption of any changes to the grievance procedure by the Authority.

Residents and resident organizations will have 30 calendar days from the date they are notified by the Authority of any proposed changes in the Authority grievance procedure, to submit written comments to the Authority.

Notice of Denial of Eligibility (24 C.F.R. § 960.208(a).)

The PHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the PHA decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

When denying eligibility for admission, the PHA must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Reauthorization Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Use of Informal Hearing Process for Initial Eligibility Denials

The PHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission.

Authority Policy

The Authority will only offer informal hearings to applicants for the purpose of disputing denials of admission. This includes individuals requesting an add to a specific household

The request for a hearing must be presented, in writing, within 15 calendar days after the Authority makes the decision to deny applicant admission. The applicant must include the address where the applicant would like the Notice of the Hearing to be delivered. Otherwise, the Notice of Hearing will be delivered to the last known address in the Authority's database.

14-III.B. DEFINITIONS (24 C.F.R. § 966.53; 24 C.F.R. § 966.51(a)(2)(i))

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the PHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
  - Right of the tenant to be represented by counsel;
  - Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
  - A decision on the merits;
- **Hearing Officer/Panel** – an impartial person or persons selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.
- **Tenant** – the adult person (or persons) (other than a live-in aide)

- Who resides in the unit and who executed the lease with the PHA as lessee of the dwelling unit, or if no such person now resides in the unit, then who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

14-III.C. APPLICABILITY (24 C.F.R. § 966.51.)

Grievances could potentially address most aspects of the PHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the PHA. It is not applicable to disputes between tenants not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

HUD has issued a due process determination for the state of California. The PHA may exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA
- Any violent or drug-related criminal activity on or off such premise;
- Any criminal activity that resulted in felony conviction of a household member

Authority Policy

Since HUD has issued a due process determination for the state of California, the Authority may evict through the state/local judicial eviction procedures. The Authority is not required to provide the opportunity for a hearing under the Authority's grievance procedure as described above.

See Chapter 13 for related policies on the content of termination notices.

Authority Policy

The Authority is required to schedule hearings for:

Reasonable Accommodation Denials;

Denial of Transfer requested due to VAWA;

10-day, 14-day, and 30-day Notices;

Notice of Debt Owed;

Final Notice of Debt Owed;

Rent Calculation; and

Rent Abatement request within the previous 12 months.

The Authority will not provide a hearing under the above circumstances until the Authority has made a determination on a specific request and a notice has been sent identifying the determination or as required by law.

The Authority will not schedule hearings for issues not required through this policy. The Authority will exercise discretion for issues not specifically stated in the policy.

14-III.D. INFORMAL HEARING OF GRIEVANCE (24 C.F.R. § 966.54)

A grievance shall be personally presented, either orally or in writing, to the PHA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

Authority Policy

A request for an Informal Hearing must be presented, in writing, within 15 calendar days after the Authority makes the decision that the resident wishes to grieve. The informal hearing will be scheduled within 15 calendar days following receipt of the request.

Grievances relating to a notice to quit must be presented within the period set forth on such notice. The Authority will schedule the hearing and notify the tenant and Authority staff of the date and time of the hearing. Cancellation or request for rescheduling of this date by the tenant, advocate or Authority staff will count as the parties one time reschedule per the language below.

Cancellation of the hearing must be made by the resident or the authorized representative in writing.

If a tenant fails to attend the scheduled hearing without prior notice, the Authority will reschedule the hearing one time only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities. The tenant must contact the Authority within 24 hours of the failure to attend.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

A summary of the hearing will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the PHA's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

Authority Policy

The Authority will prepare a summary of the informal hearing within 15 calendar days of the informal hearing date; one copy to be given to the tenant and one copy to be retained in the Authority's tenant file. If the tenant does not provide a preferred method to receive the decision, the decision will be mailed to the tenant via U.S. Postal Mail to the address that the Authority has on record.

14-III.E. PROCEDURES TO OBTAIN A FORMAL HEARING (24 C.F.R. § 966.55)

Requests for Hearing and Failure to Request (24 C.F.R. §§ 966.55(a), (c), and (d))

All grievances must be presented in accordance with the informal procedures prescribed above as a condition prior to a Formal Hearing. However, if the complainant can show good cause for failure to proceed with the informal hearing process to the hearing officer/panel, the hearing officer/panel may waive this provision. (24 C.F.R. § 966.55(d))

The complainant must submit the request in writing for a Formal Hearing within a reasonable time after receipt of the summary of informal discussion (24 C.F.R. § 966.55(a)) The request must specify the reasons for the grievance and the action or relief sought.

Authority Policy

The resident must submit a written request for a Formal Hearing to the Authority within 15 calendar days of the date of the summary of the informal hearing. Cancellation of the hearing must be made by the resident in writing. The scope of the Formal Hearing is limited to those issues and evidence originally requested in the Informal Hearing.

If the complainant does not request a hearing, the Authority's disposition of the grievance under the informal hearing process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the Authority's action in disposing of the complaint in an appropriate judicial proceeding. (24 C.F.R. § 966.55(c))

Scheduling of Hearings (24 C.F.R. § 966.55(f))

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official. Delivery to PHA staff may be in the form of e-mail.

Delivery to the tenant will be via U.S. Postal Mail unless the tenant or their representative states that e-mail is sufficient.

Authority Policy

Within 15 calendar days of receiving a written request for a hearing, the Authority will schedule and send the written notice of the hearing to the complainant.

The Authority shall permit the tenant and/or representative to reschedule a hearing one time. If the reason for rescheduling is due to a time or date conflict, the tenant must inform the Authority of a more suitable date and time frame for the rescheduled hearing. If the applicant misses the rescheduled hearing, the adverse action being grieved will stand and the family will be so notified. The Authority will reschedule the hearing to the next date and time available.

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. *Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made in writing at least 24 hours prior to the hearing date. At its discretion, the Authority may request documentation of the "good cause" prior to rescheduling the hearing.

14-III.F. SELECTION OF HEARING OFFICER/PANEL (24 C.F.R. § 966.53(e))

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person.

Authority Policy

A grievance hearing shall be conducted by a single impartial hearing officer appointed by the Authority, other than the person who made or approved the Authority action under review or a subordinate of such person. A Hearing Officer will be designated by the Executive Director or his/her designee. Eligible Authority Hearing Officers will include employees in management classifications.

Efforts will be made to ensure that the person selected is not a friend or enemy of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

14-III.G. PROCEDURES GOVERNING THE HEARING (24 C.F.R. § 966.56)

Rights of Complainant (24 C.F.R. § 966.56(b))

The complainant will be afforded a fair hearing. This includes:

The opportunity to examine before the hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing unless the document is considered attorney/client privilege.

Authority Policy

The tenant will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of Authority documents no later than 12:00 p.m. on the business day prior to the hearing.

The tenant has the right to be represented by counsel or other person chosen to represent the tenant and to have such person make statements on the tenant's behalf.

Authority Policy

Hearings may be attended by the following applicable persons:

Authority representative(s) and any witnesses for the Authority;

The tenant and any witnesses for the tenant;

The tenant's counsel or other representative;

The Authority's counsel; and

Any other person approved by the Authority as a reasonable accommodation for a person with a disability.

Tenant has the right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the PHA or property management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or property management relies.

A decision will be based solely and exclusively upon the facts presented at the hearing.

Failure to Appear (24 C.F.R. § 966.56(c))

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for no more than seven (7) calendar days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer/panel:

Provided, that a determination that the complainant has waived his/her right to a hearing will not

constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

Authority Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 15 minutes. If the tenant appears within 15 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear.

If the complainant or the Authority fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than seven (7) calendar days or may make a determination that the party has waived his right to a hearing. Both the complainant and the Authority must be notified of the determination by the hearing officer. A determination that the complainant has waived the complainant's right to a hearing will not constitute a waiver of any right the complainant may have to contest the Authority's disposition of the grievance in an appropriate judicial proceeding

Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

General Procedures (24 C.F.R. §§ 966.56(d) and (e).)

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed (24 C.F.R. § 966.56(e).)

The hearing must be conducted informally by the hearing officer/panel. The PHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and to question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings (24 C.F.R. § 966.56(f).)

Authority Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral Evidence: the testimony of witnesses. All witnesses shall be asked to swear or affirm that the information they are about to provide is true.

Documentary Evidence: a writing which is relevant to the case, for example, a letter written to the Authority. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or

symbols or combinations thereof.

Demonstrative Evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real Evidence: A tangible item relating directly to the case.

Hearsay Evidence: is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If the Authority fails to comply with the discovery requirements (providing the tenant with the opportunity to examine Authority documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the Authority to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer/panel must require the PHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer/panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate. (24 C.F.R. § 966.56(f))

The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript. (24 C.F.R. § 966.56(e))

Accommodations of Persons with Disabilities (24 C.F.R. § 966.56(h).)

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the PHA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (LEP) (24 C.F.R. 966.56(g).)

The PHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

14-III.H. DECISION OF THE HEARING OFFICER (24 C.F.R. § 966.57)

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the tenant and the PHA. The PHA must retain a copy of the decision in the tenant's folder. A copy or log of all hearing officer decisions, with all names and identifying references deleted, must also be maintained by the PHA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer. (24 C.F.R.§ 966.57(a))

Authority Policy

In rendering a decision, the hearing officer will consider the following matters:

Authority Notice to the Family: The hearing officer will determine if the reasons for the Authority's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with Authority policy.

Authority Evidence to Support the Authority Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the Authority's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and Authority policies. If the grounds for termination are not specified in the regulations or in compliance with Authority policies, then the decision of the Authority will be overturned.

The hearing officer will issue a written decision to the family and the Authority no later than 15 calendar days after the hearing. The report will contain the following hearing information:

- Name of the complainant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the Authority representative(s);
- Name of family representative (if any);
- Names of witnesses (if any).

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal hearing was held, who held it, and a summary of the results of the informal hearing. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is standard of proof defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Analysis: The hearing officer will provide an analysis of the Findings of Fact and determine which party has proved their argument by a preponderance of the evidence. The "Findings of Fact" and "Analysis" may be joined under the heading "Findings of Fact/Analysis"

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the Authority's decision.

Order: The hearing report will include a statement of whether the Authority's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Authority to change the decision. The following are the general policies in overturning decisions:

- In the case of termination of tenancy, the hearing officer will instruct the Authority to restore the family's status.

- In the case of overturning income, rent or third-party reconciliations, the hearing officer will instruct the Authority to re-calculate the rent and/or income based on the documents originally submitted to the Authority at the time the calculations were completed. Income or expense documents submitted at the hearing but not available to the Authority at the time of calculation may not be used to overturn a previous calculation but will rather serve the basis for a future interim calculation.

- In the case of a denial reasonable accommodation request, the hearing officer may overturn a decision and require the Authority to re-consider the request or enter into negotiations with the family. The hearing officer is not authorized to make reasonable accommodation decisions on behalf of the Authority.

- The Authority shall retain a copy of the decision in the tenant's folder. (24 CFR 966.57(a)).

Recording of the Hearing

The PHA will record every hearing with a digital recorder or similar device. The family may record the hearing with their own device or request a copy from the PHA for a charge of $5.00. Video recordings of the hearing are not permitted absent consent of all parties in the hearing

room at the commencement of the hearing. If additional persons shall enter, they too must agree to a video recording of the hearing. Absent unanimous consent of video recording throughout the hearing by all parties present, a video recording of the hearing shall not be permitted.

Procedures for Further Hearing

Authority Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented up to the deadline.

Final Decision (24 C.F.R. § 966.57(b))

The decision of the hearing officer shall be binding on the PHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the PHA Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination, that:

- The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease or PHA regulations, which adversely affect the complainant's rights, duties, welfare or status; or

- The decision of the hearing officer is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the PHA

Authority Policy

When the Authority considers the decision of the hearing officer invalid due to the reasons stated above, it will present the matter to the Authority Board of Commissioners within 45 calendar days of the date of the hearing officer's decision. The Board has 45 calendar days from the date of the Board of Commissioners meeting to consider the decision. If the Board decides to reverse the hearing officer's decision, the Board, through its designee must notify the complainant within 30 calendar days of its decision.

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 C.F.R. § 5.233].

PHAs are further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to PHAs and Terminations;"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

Authority Policy

The Authority anticipates that the vast majority of families and Authority employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the Authority's program is administered effectively and according to the highest ethical and legal standards, the Authority will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The Authority will provide each applicant and resident with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The Authority will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the Authority will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The Authority will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The Authority will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

The Authority will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

Authority staff will be required to review and explain the contents of all HUD and Authority-required forms prior to requesting family member signatures.

The Authority will place a warning statement about the penalties for fraud (as described in 18 U.S.C. §§ 1001, 1010) on key Authority forms and form letters that request information from a family member.

The Authority will provide each Authority employee with the necessary training on program rules and the organization's standards of conduct and ethics.

At every regular reexamination the Authority staff will explain any changes in HUD regulations or Authority policy that affect residents.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Authority Policy

The Authority will employ a variety of methods to detect errors and program abuse, including:

- The Authority routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to the Authority.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The Authority will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

Authority Policy

The Authority will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the Authority's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

Authority Policy

The Authority will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

Authority Policy

The Authority will review referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. For the Authority to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The Authority will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information (24 C.F.R. § 960.259.)

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require families to sign consent forms for the release of additional information.

Analysis and Findings

Authority Policy

The Authority will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is the burden of proof as defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses,

but by the greater weight of all evidence.

For each investigation the Authority will determine (1) whether an error or program abuse has occurred; (2) whether any amount of money is owed the Authority; and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

Authority Policy

In the case of family-caused errors or program abuse, the Authority will take into consideration: (1) the seriousness of the offense and the extent of participation or culpability of individual family members; (2) any special circumstances surrounding the case,; (3) any mitigating circumstances related to the disability of a family member; (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

Authority Policy

The Authority will inform the relevant party in writing of its findings and remedies within 30 calendar days of the conclusion of the investigation. The notice will include: (1) a description of the error or program abuse; (2) the basis on which the Authority determined the error or program abuses; (3) the remedies to be employed; and (4) the family's right to appeal the results through an informal hearing or grievance hearing (See Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the tenant rent and any utility reimbursement prospectively.

Authority Policy

Increases in the tenant rent will be implemented on the first of the month following a written 30 calendar-day notice.

Any decreases in tenant rent will become effective on the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the PHA or the PHA is required to credit the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA

Authority Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The Authority may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the Authority will terminate the family's lease in accordance with the policies in Chapter 13.

PHA Reimbursement to Family

Authority Policy

The Authority will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the PHA (18 U.S.C. § 1001.)
- Provide incomplete or false information to the PHA (24 C.F.R. § 960.259(a)(4).)
- Commit fraud or make false statements in connection with an application for assistance or with reexamination of income (24 C.F.R.§ 966.4(l)(2)(iii)(C).)

Authority Policy

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the Authority Board of Commissioners, employees, contractors, or other Authority representatives;
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the Authority on the family's behalf;
- Use of a false name or the use of falsified, forged, or altered documents;
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition);
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income);
- Admission of program abuse by an adult family member.

The Authority may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay any amounts owed to the program (See 15-II.B., Family Reimbursement to PHA).
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. (See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).)
- The PHA may deny admission or terminate the family's lease following the policies set

forth in Chapter 3 and Chapter 13 respectively.

- The PHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. AUTHORITY-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect rental determinations include: (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses; and (2) errors in calculation.

De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

Authority Policy

The Authority will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

Prohibited Activities

Authority Policy

Any of the following will be considered evidence of program abuse by Authority staff:

- Failing to comply with any public housing program requirements for personal gain;
- Failing to comply with any public housing program requirements as a result of a conflict-of-interest relationship with any applicant or resident;
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the Authority;
- Disclosing confidential or proprietary information to outside parties;
- Gaining profit as a result of insider knowledge of Authority activities, policies, or

practices;

- Misappropriating or misusing public housing funds;
- Destroying, concealing, removing, or inappropriately using any records related to the public housing program;
- Committing any other corrupt or criminal act in connection with any federal housing program.
- Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment
- Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the Authority knew or should have known such harassment was occurring
- Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

15-II.D. CRIMINAL PROSECUTION

Authority Policy

When the Authority determines that program abuse by a family or Authority staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the Authority will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the PHA recovers. (Notice PIH 2007-27 (HA).)

If the PHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the PHA's grievance process.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of PHA-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the PHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.

Part V: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Violence against Women Reauthorization Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES

24 CFR 965 (E)

16-I.A. OVERVIEW

PHAs must establish allowances for PHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier. (24 C.F.R. § 965.502(a).)

PHAs must also establish surcharges for excess consumption of PHA-furnished utilities. (24 C.F.R. § 965.506.)

The PHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents. (24 C.F.R. § 965.502(b).)

16-I.B UTILITY ALLOWANCES

The PHA must establish separate allowances for each utility and for each category of dwelling units the PHA determines to be reasonably comparable as to factors affecting utility usage. (24 C.F.R. § 965.503.)

The objective of a PHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment. (24 C.F.R. § 965.505.)

Utilities include gas, electricity, and fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the PHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide. (24 C.F.R. § 965.505.)

Costs for telephone, cable/satellite TV, and internet services are not considered utilities. (PH Occ GB, p. 138.)

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage. (PH Occ GB, p. 138.)

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the PHA about establishing utility allowances.

Air-Conditioning

If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not

provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible. (24 C.F.R. § 965.505(e).)

Authority Policy

The Authority has not installed air-conditioning.

Utility Allowance Revisions (24 C.F.R. § 965.507)

The PHA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 C.F.R. § 965.505. The review must include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the PHA) indicating probability of a significant change in reasonable requirements and changes in utility rates [24 CFR 965.507(a)].

The PHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

Authority Policy

Between annual reviews of utility allowances, the Authority will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES (24 C.F.R. § 965.506.)

For dwelling units subject to allowances for PHA-furnished utilities where check meters have been installed, the PHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption and must be based on the PHA's average utility rate. The basis for calculating the surcharges must be described in the PHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the PHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by PHA-furnished utilities where check meters have not been installed, the PHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of PHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the PHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

Authority Policy

The Authority may provide furnished utilities.

16-I.D. NOTICE REQUIREMENTS (24 C.F.R. § 965.502.)

The PHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 calendar days before the proposed effective date of the allowances, scheduled surcharges, or revisions;
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges;
- Notify residents of the place where the PHA's documentation on which allowances and surcharges are based is available for inspection
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 calendar days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION (24 C.F.R. § 965.508.)

On request from a family that includes a disabled or elderly person, the PHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family. (PH Occ GB, p. 172.)

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability. (PH Occ GB, at p. 172.)

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status (24 C.F.R. § 5.504.)

This part discusses how the PHA establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

16-II.B. FLAT RENTS (24 C.F.R. § 960.253(b); Notice 2022-33)

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the PHA may set flat rents at no less than 80 percent of the applicable small area FMR (SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits PHAs to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate that these FMRs do not reflect the market value of a particular property or unit and HUD agrees with the PHA's analysis. The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary."

In order to demonstrate the need for an exception flat rent, PHAs are required to submit a market analysis methodology that demonstrates the value of the unit. The PHA must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, PHAs must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA.

PHAs must receive written HUD approval before implementing exception flat rents. PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2022-33.

PHAs are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

Review of Flat Rents

No later than 90 calendar days after HUD publishes new annual FMRs/SAFMRs/unadjusted rent, PHAs must revise flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR falls from year to year, the PHA may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

Authority Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the Authority will reduce flat rents to 80 percent of the current FMR/SAFMR.

Applying Flat Rents

The PHA must offer changes to the flat rent to all new admissions and to existing families at the next annual reexamination or flat rent update after implementation of the new flat rents.

Authority Policy

The Authority will apply updated flat rents at each family's next annual reexamination or flat rent update after implementation of the new flat rents.

Posting of Flat Rents

Authority Policy

The Authority will publicly post the schedule of flat rents in a conspicuous manner in the applicable Authority or project office.

Documentation of Flat Rents (24 C.F.R. § 960.253(b)(5).)

The PHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the PHA in accordance with this method.

PART III: FAMILY DEBTS TO THE PHA

16-III.A. OVERVIEW

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

This part describes the PHA's policies for recovery of monies owed to the PHA by families.

Authority Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the Authority holds the family liable to return any underpayments to the Authority.

The Authority will enter into repayment agreements in accordance with the policies contained in this part as a means to recover underpayments.

16-III.B. REPAYMENT POLICY

Family Debts to the PHA

Authority Policy

Any amount owed to the Authority by a public housing family must be repaid. If the family is unable to repay the debt within 30 calendar days, the Authority will offer to enter into a repayment agreement in accordance with the policies below.

Refusal to Enter into An Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the family's tenancy.

Authority Policy

Any amount owed to the Authority by a public housing family must be repaid. If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the Authority will terminate the family's tenancy in accordance with the policies in Chapter 13 and enter the debt into the Debts Owed module of EIV.

When a family refuses to repay monies owed to the Authority, in addition to termination of program assistance, the Authority will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies
Small claims court

Civil lawsuit
State income tax set-off program

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

Repayment Agreement Guidelines

Down Payment Requirement

Authority Policy

Before executing a repayment agreement with a family, the Authority will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the Authority that a down payment of 10 percent would impose an undue hardship, the Authority may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered "affordable." Moreover, Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families (24 CFR 982.552(c)(1)(vii))

Housing Retention Agreement (HRA)

Authority Policy

If a balance exists on the account that is more than the current rent amount, any amount less than the total balance of the past 12 months will not be accepted absent a HRA being entered into. A HRA is an agreement which provides for the payment of all outstanding rents owed by the tenant, with the objective that the tenant will be permitted to continue to rent the unit.

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

- The difference between 7.5% percent of the household's MAI; or
- $25.00

If the family's income increases or decreases during the term of a repayment agreement, either the Authority or the family may request that the monthly payment amount be adjusted accordingly. The minimum amount required for a repayment agreement is $25.00

Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

Authority Policy

Any repayment agreement between the Authority and a family becomes effective once signed and dated by the Authority and by the head of household and spouse/co-head (if applicable).

Due Dates

Authority Policy

All payments are due by the close of business on the tenth (10) day of the month. If the tenth (10) does not fall on a business day, the due date is the close of business on the first business day after the tenth (10) of the month.

Late or Missed Payments

Authority Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the Authority, the Authority will send the family a delinquency notice giving the family 14 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the Authority will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the Authority will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

Authority Policy

A resident may enter into a repayment agreement with their property office once every two years. If the resident completes payment of one agreement and again needs the assistance of a repayment agreement to remain in the unit, the determination shall be made by the area manager of the property whether to enter into a second repayment agreement in the course of the 24 months. The decision made by the area manager is subject to the grievance policies in Chapter 14.

Repayment Agreement Calculation

Authority Policy

A resident will be required to submit a down payment of 10 percent of their adjusted monthly income to the Authority at the time the Repayment Agreement takes effect. The

following month, the tenant will be required to pay their regular rent portion plus 7.5 percent of their adjusted monthly income toward repayment of the remaining outstanding balance, which will be due to the Authority monthly until the balance owed is paid in full.

Reconciliation

Authority Policy

The Authority has undertaken a reconciliation effort of tenant files. The reconciliation will ensure that numbers being reported to HUD and the amount paid by the tenant are accurate and in accordance with policies and procedures. However, upon the reconciliation occurring and the three (3) year debt being noticed to the tenant, the tenant is obligated to pay that amount in addition to all amounts accrued after reconciliation.

Upon completion of the tenant reconciliation, tenant will be notified of their debt owed within the previous three (3) years. The notice shall include the:

- Period of time the reconciliation covered (three (3) years);
- Notification that debt accruing moving forward will be added to the three- (3) year debt and tenant is responsible for the debt in the notice plus all debt accrued moving forward;
- Right to a grievance hearing within 15 calendar days if the tenant disagrees with the amount in the reconciliation;
- Opportunity to enter into a repayment agreement within 15 calendar days; and
- Contact information to enter into a repayment agreement.

Refusal to enter into a repayment agreement will result in the Authority following proceedings as laid out in Chapter 13.

If a tenants file has yet to be reconciled, the tenant may enter into an agreement with the property office for their three (3) year, unreconciled, debt. If, when the file is reconciled, the amount in the agreement is inconsistent with the reconciled amount, the agreement will be updated to reflect the reconciled amount owed.

Tenants whose files are in the process of eviction proceedings will not receive the above notice and will instead be notified of their debt through the Authority's counsel of record.

If a family can provide evidence satisfactory to the Authority that the monthly payment amount as determined by the Authority would impose an undue hardship or that their income is $0.00, the Authority will require a lower monthly payment amount of no less than $25.00.

Repayment Agreements Involving Improper Payments

Notice PIH 2018-18 requires certain provisions to be included in any repayment agreement

involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act;
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the PHA the family's monthly share of the rent to owner;
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases;
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy;

Repayment Agreements Requested of Ex-Tenants

Authority Policy

Public Housing Tenants who converted to the Housing Choice Voucher (HCV) Program under the Rental Assistance Demonstration (RAD) Program may enter into a repayment agreement within six (6) months of their conversion to the HCV Program. The Authority has the discretion to enter into an agreement with an ex-tenant after six (6) months. Ex-Tenants who enter into a repayment agreement may decide how much they would like to pay monthly. Under no circumstances can the amount be less than $25.00.

The Authority will not enter into repayment agreements with individuals who are no longer clients in the Public Housing Program nor are in the RAD program. For those individuals who would like to pay their debt to the Authority, a full payment will be required.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS (24 C.F.R. §§ 902(A), 902 (B), 902 (C), 902 (D), 902 (E.).)

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the PHA's projects

Maximum Score: 40

- The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of safe, habitable dwelling units.
- To determine the physical condition of a PHA's projects, inspections are performed using the National Standards for the Inspection of Real Estate (NSPIRE).The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in each project in the PHA's public housing portfolio.

Indicator 2: Financial condition of the PHA's Projects

Maximum Score: 25

- The objective of this indicator is to measure the financial condition of the PHA's public housing projects for the purpose of evaluating whether the PHA has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- A PHA's financial condition is determined by measuring each public housing project's performance in each of the following sub-indicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of the PHA's projects

Maximum Score: 25

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA's projects for the purpose of assessing the PHA's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund

Maximum Score: 10

- The objective of this indicator is to measure how long it takes the PHA to obligate capital funds and to occupy units.
- The PHA's score for this indicator is measured at the PHA level and is based on the following sub-indicators: timeliness of fund obligation and occupancy rate.

16-IV.C. PHAS SCORING (24 C.F.R. § 902(F).)

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the sub-indicators under each indicator. The PHA's indicator scores are based on a weighted average of the PHA's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performing, standard, substandard, or troubled. These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions; (24 C.F.R. § 902.71.)
- PHAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance; (24 C.F.R. § 902.73(a)(1).)
- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance; (24 C.F.R. § 902.73(a)(2).)
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance; (24 C.F.R. § 902.75.)
- PHAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default. (24 C.F.R. §§ 902.75(g), 907.)

The PHA must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation (24 C.F.R. § 902.64(b)(2).)

PART V: RECORD KEEPING

16-V.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA 2013 confidentiality requirements.

16-V.B. RECORD RETENTION

The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date. (24 C.F.R. § 908.101.)

Authority Policy

During the term of each public housing tenancy, and for three (3) years thereafter, the Authority will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, the Authority will keep the following records for at three (3) years:

- An application from each ineligible family and notice that the applicant is not eligible;
- Lead-based paint records as required by 24 C.F.R. § 35(B);
- Documentation supporting the establishment of flat rents;
- Documentation supporting the establishment of utility allowances and surcharges;
- Documentation related to PHAS;
- Accounts and other records supporting the Authority's budget and financial statements for the program;
- Other records as determined by the Authority or as required by HUD.

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

Authority Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized Authority staff.

Authority staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements (24 C.F.R. § 5.212 and Form-9886.)

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

Authority Policy

Prior to utilizing HUD's EIV system, the Authority will adopt and implement EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information. (24 C.F.R. § 5.903(e).)

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for

which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. (24 C.F.R. § 5.903(g).)

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 C.F.R. § 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

Domestic Violence, Dating Violence, Sexual Assault, or Stalking Records

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-VII.E.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS (24 C.F.R. § 35.1130(e); Notice PIH 2017-13)

The PHA has certain responsibilities relative to children with elevated blood lead levels that are living in public housing.

The PHA must report the name and address of a child identified as having an elevated blood lead level to the public health department within five (5) business days of being so notified by any other medical health care professional. The PHA must also report each known case of a child with an elevated blood lead level to the HUD field office.

Authority Policy

The Authority will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

The Authority will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within five (5) business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, "Eligibility" (Sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (Section 5-II.D); Chapter 8, "Leasing and Inspections" (Section 8-I.B); Chapter 12, "Transfer Policy" (Sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (Sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS (24 C.F.R. § 5.2003; FR Notice 8/6/13.)

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth

victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

16-VII.C. NOTIFICATION (24 C.F.R. § 5.2005(a))

Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

Authority Policy

The Authority will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A notice of occupancy rights under VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, sexual assault or stalking (Form HUD-5380, see sample notice in Exhibit 16-1).

The definitions of *domestic violence*, *dating violence*, *sexual assault,* and *stalking* provided in VAWA (included in Exhibit 16-1).

An explanation of the documentation that the Authority may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1).

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.

A statement of the Authority's obligation to keep confidential any information that it receives from a victim unless (1) the Authority has the victim's written permission to release the information; (2) it needs to use the information in an eviction proceeding; or (3) it is compelled by law to release the information (included in Exhibit 16-1).

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233), or 1-800-787-3224 (TTY) (included in Exhibit 16-1).

San Francisco based victim advocacy group: La Casa de las Madres Safe Housing Project: 1815 Egbert Avenue, San Francisco CA 94124. (415) 715-3129 and (415) 715-3225.

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Notification to Applicants and Tenants (24 C.F.R. § 5.2005(a)(1).)

PHAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The PHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

Authority Policy

The VAWA information provided to applicants and tenants will consist of the notice of VAWA rights in Exhibit 16-1 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

The Authority will provide all applicants with information about VAWA at the time they request an application for housing assistance. The Authority will also include such information in all notices of denial of assistance (see Section 3-III.F).

The Authority will provide all tenants with information about VAWA at the time of admission and at annual reexamination. The Authority will also include such information in all lease termination notices (see Section 13-IV.D).

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

16-VII.D. DOCUMENTATION (24 C.F.R. § 5.2007)

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. (24 C.F.R. § 5.2007(a).)

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation (24 C.F.R. § 5.2007(b).):

1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim;

2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record;

3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation (FR Notice 11/16/16).

Authority Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The Authority may, in its discretion, extend the deadline for 10 calendar days. Any extension granted by the Authority will be in writing.

Conflicting Documentation (24 C.F.R. § 5.2007(e).)

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

Authority Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the Authority will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 C.F.R. § 5.2007(e) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation (24 C.F.R. § 5.2007(d).)

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence, i.e., without requiring formal documentation of abuse in accordance with 24 C.F.R. § 5.2007(b).

Authority Policy

If the Authority accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking, the Authority will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation (24 C.F.R. § 5.2007(c).)

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

16-VII.E. CONFIDENTIALITY (24 C.F.R. § 5.2007(b)(4).)

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database; (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work; and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

Authority Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the Authority will follow the process in Chapter 13.

Chapter 17

COMMON AREAS

INTRODUCTION

This chapter contains information about the PHA and its programs with emphasis on the Common Areas. It contains information that applies to all residents of the PHA and their buildings.

Part I.: The No Smoking Policy. This part includes the Statement of Operation and the Policy as it pertains to residents.

Part II: The Community Room Policy. This part pertains to the shared community rooms at the individual developments.

PART I: NO SMOKING POLICY

1. **Purpose of Non-Smoking Policy**. The parties desire to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) the increased maintenance, cleaning and redecorating costs from smoking; and (iii) the increased risk of fire from smoking.

2. **Definition of Smoking**. The term "smoking" means inhaling, exhaling, breathing or carrying or possessing any lighted cigarette, cigar, pipe or other tobacco product or similar lighted product in any manner or in any form. Electronic cigarette's, including vapor products are considered "smoking" and must adhere to this Policy.

2. **Non-Smoking Area**. Resident agrees and acknowledges that the Premises and any interior common areas, including but not limited to individual units, community rooms, community bathrooms, lobbies, reception areas, hallways, laundry rooms, stairways, offices and elevators, occupied by Resident, members of Resident's household and any guest of the Resident shall be smoke free. Resident also agrees that Resident, members of Resident's household and any guest of the Resident shall refrain from smoking within 25 feet of any building entrances, exits, and operable windows and vents.

3. **Smoking Areas.** A Resident may smoke at the curb of the street, sidewalk, or alley closest to the Property; if there is no curb near the Property, at least 25 feet away from the building entrances, exits, and operable windows, vents, inside a residential unit when the front door is closed; the private outdoor area(s)of a residential unit (e.g., balconies and private yards, etc.); the outdoor common area of the residential building that is greater than 25 feet from a door or window located within its perimeter.

5. **Resident to Promote Non-Smoking Policy and to Alert Landlord of Violations**. Resident shall inform Resident's guests of the non-smoking policy. Further, Resident shall promptly give Landlord a written statement of any incident where tobacco smoke is migrating into the Resident's unit from sources outside of the Resident's unit.

6. **Landlord to Promote Non-Smoking Policy**. Landlord shall post no-smoking signs at entrances and exits, in common areas and in conspicuous places adjoining the grounds of the Non-Smoking Area.

7. **Landlord Not a Guarantor of Smoke-Free Environment**. Resident acknowledges that Landlord's adoption of a non-smoking living environment does not make the Landlord or any of its managing agents the guarantor of Resident's health or of the non-smoking condition of the Resident's unit and the common areas. However, Landlord shall take reasonable steps to enforce the non-smoking terms of its leases and to make the Non-Smoking Area as smoke-free as is reasonably possible.

8. **Effect of Breach and Right to Terminate Lease**. A breach of this Lease Addendum shall give each party all the rights contained herein, as well as the rights contained in the Lease. A material or continuing breach of this Addendum shall be a material breach of the lease and grounds for termination of the Lease by the Landlord.

PART II: THE COMMUNITY ROOM POLICY

17-II.A. OVERVIEW

The majority of the Authority's developments offer Community Rooms for the benefit of those residents residing in the buildings. This policy has been created in order to ensure that all residents have the assurance that the community rooms may be utilized fairly by all.

17-II.B. SCHEDULING

The property office shall maintain the calendar of events for the community room located in their property. Only residents who are on the lease within the building/development where the community room is being requested may reserve the community room. A minimum notice period of 48 hours' is required for all events occurring between Monday and Friday, 8:00 a.m. – 5:00 p.m. and at least five (5) days' notice for any events occurring after regular business hours, on the weekends, or on a holiday.

17-II.C. SECURITY DEPOSIT AND FEES

A security deposit of $100.00 will be required for the booking of the Community Room and must be paid to the Property Office by check or money order at the time of the scheduling. Within 48 hours of the conclusion of the event the property manager will inspect the facility. Should it be determined that the Community Room was left in a worst condition than at the time it was rented, then the entire $100.00 will be maintained by the property office. Should it be determined that the Community Room was left in the same condition or better than it was provided, then the $100.00 deposit will be returned to the tenant. The determination is at the sole discretion of the property manager.

At no time will cash be accepted for the scheduling of the Community Room.

17-II.D. SET UP AND CLEAN UP

The property manager or their designee will provide a walk through with the tenant booking the Community Room prior to the event, as well as after the event identifying the condition that the room is expected to be in upon the completion of the event. Should the tenant not attend the walk through, the Property Manager has the discretion to deny the request to use the Community Room. The tenant who has requested to reserve the Community Room is responsible for setting up and cleaning for their occasion. This includes setting up any chairs and tables that may be available at the site, putting up decorations as well as leaving the room free of garbage and/or any other items that were not present at the time of the reservation.

17-II.E. REQUIREMENTS

The Authority will require the following for all events:

- No drugs or alcohol of any kind shall be allowed in the Community Room;
- No decorations will be permitted that require an open flame, this includes candles, incents, and indoor barbeques;
- Any events that occur on the weekends after 5:00 p.m., holidays after 5:00 p.m. or after hours where the expected population will surpass 50 individuals will require the tenant to hire private security at their own cost and provide verification of the contracted security.
- All residents must enter into a Community Room agreement at the time that the deposit is made to reserve the room;
- Residents must respect others reserved space;

17-II.F. TENANT ASSOCIATION EXCEPTION

Tenant Associations may use their buildings/development Community Room for Tenant Association meetings and Tenant Association sponsored events pending availability and approval by the Property Manager of the development at no cost to the tenant association.

17-II.G. BUILDING EXCEPTION

Upon conversion of management, buildings will abide by the designated house rules set by the property management company responsible for managing the building.

San Francisco Housing Authority Policy:
Limited English Proficiency Plan

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1.0 Date of Implementation; Approval Authority; Policy Number

Policy Number 2: Approved October 28, 2016; Effective January 1, 2017
Policy Number 1: Effective May 24, 2010

2.0 Purpose of the Policy & Plan Statement

The San Francisco Housing Authority (Authority) has adopted this plan to provide meaningful access to its programs and activities by persons with Limited English Proficiency (LEP). It is the official policy of the Authority to comply with the letter and spirit of Title VI of the Civil Rights Act to provide access to the Authority's programs to persons who are Limited English Proficient, using whatever means necessary and reasonable. In accordance with Federal guidelines, the Authority will make reasonable efforts to provide or arrange for free language assistance for its LEP clients, including applicants, recipients and/or persons eligible for public housing, Section 8/Housing Choice Vouchers, homeownership and other Authority programs.

3.0 Detailed Policy Statement

3.1 Meaningful Access: Four Factor Analysis

Meaningful access is free language assistance in accordance with Federal guidelines.

No less than every five (5) years, The Authority will assess and update the following four-factor analysis, including but not limited to:

1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the Authority;
2) The frequency persons using a particular language come into contact with the Authority;
3) The nature and importance of the Authority program, activity or service to the person's life;
4) The Authority's resources and the cost of providing meaningful access. Reasonable steps may cease to be reasonable where the costs imposed substantially exceed the benefits.

3.1.1 Factor One

The Authority language preference data compiled by reports generated from the Authority ELITE software client file computer system, produced the following statistics on clients we currently serve:

LANGUAGE	TOTAL	PERCENTAGE
Cantonese	12780	22.91%
Russian	2958	5.30%
Spanish	3715	6.66%
Vietnamese	3283	5.88%

A determination as to whether five (5) percent of the Authority clientele speaks a specific language will trigger consideration of vital document translation.

3.1.2 Factor Two

The frequency with which LEP persons using a particular language come into contact with the Authority.

This determination will be made by analyzing the data in our ELITE software system

to project the anticipated number of contact points a client may have with the Authority. The authority will also retain copies of sign in sheets for reference and analysis as well on an as needed basis.

3.1.3 Factor Three

The nature and importance of the Authority program, activity or service to the person's life.

The Authority adheres to the philosophy that housing is essential and extremely important. Thus, when a staff member engages a client in a discussion involving the client's rights to benefits, programs or services offered by the Authority, the staff member must determine whether failure to provide language assistance would result in a substantial delay that would adversely affect the client's rights.

3.1.4 Factor Four

The Authority's resources and the cost of providing meaningful access.

The Authority will utilize a combination of procured vendors and the Authority verified multi-lingual staff members as professional, competent translators and interpreters. The Authority will procure qualified vendors to provide written translations of vital documents, as well as oral interpretation for languages not spoken by Authority staff members. Authority staff members who agree to serve as oral interpreters will receive additional compensation for demonstrating proficiency in multiple languages, participating in interpreter/cultural competency training, and serving as oral interpreters.

Additionally, the Authority will establish partnerships with City departments/agencies and community organizations to provide volunteer interpreter services for our clients, as alternative when professional interpreters (procured vendors and Authority staff members) are unavailable. The Authority will allow clients to waive their right to professional and/or volunteer language services, so that clients may utilize friends or family members (who are not minors) as oral interpreters.

3.2 Language Assistance

A person who does not speak English as their primary language and/or who has a limited ability to read, write, speak or understand English may be a Limited English Proficient (LEP) person and is therefore entitled to language assistance with respect

to Authority programs and activities.

Authority staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating in English. The staff will use the LEP Language Chart to identify the languages spoken/written by the applicants/participants. Staff will also use the Personal Declaration form at every admission and re-certification to update the translation/interpretation services needed for each household.

The Authority will assess client needs for language assistance based on requests for interpreters and/or translation, as well as the literacy skills of clients.

The Authority will distinguish between language assistance provided in the form of 1) written translations, and 2) oral interpretations.

3.2.1 Written Translations

The Authority will weigh the costs and benefits of translating documents for potential LEP groups, considering the expense of translating the documents, the barriers to meaningful translation or interpretation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, and other relevant factors. The Authority will undertake this examination when an eligible LEP group constitutes five percent of an eligible client group.

Based on the Four-Factor analysis, Authority translates vital documents to Chinese (Cantonese), Russian, Spanish and Vietnamese. Vital documents are listed in the LEP Plan Procedure.

A client may request oral interpretations of the above documents into languages not listed above. A client may also request oral interpretations of documents not translated.

As opportunities arise, the Authority may work with other housing authorities to share the costs of translating common documents, which may include language groups, which currently do not reach the threshold level in the Authority's client population.

The Authority will require a client to certify that the client understood the document translated with the Translation Certification Document.

The Authority staff member will also explain to the client that any written translations of Authority or HUD forms are not the official/legal version of the form. Vital document translations are used for the sole purpose of helping the LEP client understand the contents of the document. When a staff member uses a vital document translation to help a client understand a document, the client will only sign documents and forms in the English version.

3.2.2 Oral Interpretations

The Authority will provide interpreters, including multi-lingual staff and procured vendors in accordance with this plan. Written translation and verbal interpretation services will be provided consistent with the four-factor analysis detailed above and in accordance with the "Vital Document(s) List".

In cases of Formal/Informal Hearings an Authority staff interpreter may not be a subordinate to the Authority staff member rendering a decision on the client's hearing.

The Authority will monitor LEP in accordance with the LEP Procedures.

After the Authority has offered free interpretation services, an LEP client may prefer to use an informal interpreter, such as a friend or family member (who is not a minor), and the informal interpreter may interpret. In these cases the client and interpreter of choice will sign a waiver of free interpreter services.

4.0 Applicability

This policy applies to all regular management and staff of the Authority. Failure to comply with this policy can result in disciplinary action up to termination of employment. Authority staff will receive training on the LEP Plan and Procedure every two (2) years and within six (6) months of hire.

5.0 Implementation Procedures

The implementation procedures for this Plan are attached herein.

6.0 Interested Interpreters:

Residents who are interested in interpreting or providing translation services are invited to call 415-715-5200 and provide their contact information. The Authority

will create a list of resident interpreters that may be contacted when their services are needed. The list will be maintained by the Authority and is not accessible to the public. Resident interpreters will not be used for individual client matters to protect their privacy. A stipend, to be determined by the Authority, will be provided when the services are utilized.