



HOUSING AUTHORITY
of the County of Butte

~~2022~~2023

ADMISSIONS AND CONTINUED OCCUPANCY POLICY
FOR THE
PUBLIC HOUSING PROGRAM

Effective Date: 10/01/~~2022~~2023



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- 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 PHA 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 PHA will provide information to public housing applicant families about civil rights requirements.

2-1.C DISCRIMINATION COMPLAINTS

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

-In all cases, the PHA ~~may~~will advise the family that they may ~~to~~ file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

Upon receipt of a housing discrimination complaint, the PHA is required to:

- ~~Provide written notice of the complaint to those alleged and inform the complainant that such notice was made~~
- ~~Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted~~
- ~~Keep records of all complaints, investigations, notices, and corrective actions [Notice PHH 2014-20]~~

HACB-PHA Policy

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

Within 10 business days of receiving the complaint, the HACB will ~~provide a written notice to those alleged to have violated the rule. The HACB will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO), or State of California Department of Fair Employment & Housing (DFEH).~~

The HACB will investigate and attempt to remedy discrimination complaints made against the HACB-PHA and will conduct an investigation into all allegations of discrimination. The PHA will also advise the family of the right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in PHA lobbies, will reference how to file a complaint with FHEO.

~~Within 10 business days following the conclusion of the HACB's investigation, the HACB will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.~~

The HACB-PHA will keep a record of all complaints, investigations, notices and corrective actions (See Chapter 16).

~~Applicants or tenant families who believe that they have been subject to unlawful discrimination may also notify HUD by telephone (800) 669-9777; mail at the San Francisco Regional Office of FHEO, U.S. Department of Housing and Urban Development, 600 Harrison Street, 3rd Floor, San Francisco, CA 95107-1387; or via the Internet.~~

~~— The Fair Housing Act prohibits discrimination based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, people securing custody under the age of 18), and disability.~~

~~Applicants or tenant families who believe that they have been subject to unlawful discrimination may also notify the State of California Department of Fair Employment & Housing ("DFEH"). The DFEH can be reached at their Communication Center (800) 884-1684 or TTY (800) 700-2320 for hearing impaired or by email at contact-center@dfeh.ca.gov.~~

~~California law protects individuals from illegal discrimination by housing providers based on the following: race, color; ancestry, national origin; religion; disability—mental or physical; sex, gender; sexual orientation; gender identity, gender expression; genetic information; marital status; familial status; and source of income.~~

Complaints under the Equal Access Final Rule [Notice PIH 2014-20]

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

PHA Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify the PHA either orally or in writing.

Within 10 business days of receiving the complaint, the PHA will provide a written notice to those alleged to have violated the rule. The PHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The PHA will attempt to remedy discrimination complaints made against the PHA and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

VAWA Complaint Processing [Notice FHEO 2023-01]

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

PHA Policy

Applicants or tenant families who wish to file a VAWA complaint against the PHA may notify the PHA either orally or in writing.

The PHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The PHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

The PHA will attempt to remedy complaints made against the PHA and will conduct an investigation into all allegations of discrimination.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

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 CFR 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 CFR 966.7(b)].

HACB Policy

The HACB 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 HACB, 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.”

To request a reasonable accommodation, you may contact the Section 504 Coordinator Larry Guanzon, in writing at the Housing Authority of the County of Butte office located at 2039 Forest Avenue, Chico CA 95928 or by telephone at (530) 895-4474 Ext. 226 or email at larryg@butte-housing.com.

[The PHA will display posters and other housing information and signage in locations throughout the PHA'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, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. 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.

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.
 - Not currently be receiving a duplicative subsidy.
 - Net assets can not exceed \$100,000.00
- 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 PHA 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, and 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 PHA to deny admission.

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 HUD's eligibility rules.

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking the PHA must ensure that the victim retains assistance, (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking see section 16-VII.D of this ~~plan~~ACOP).
- If a court determines the disposition of property between members of assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

HACB-PHA Policy

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 submit a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while living in public housing, 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 HACB will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the HACB will determine which family retains their placement on the waiting list, or will continue in occupancy 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) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of domestic violence or criminal activity, and (5) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 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."

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is 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.

HACB Policy

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

The HACB will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the HACB will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

Income and Income Validation Tool (IVT) Reports

For each new admission, the HACB is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The HACB must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

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 addition, HUD requires or permits the PHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHA's authority in this area is limited by the Violence against Women Act ~~of 2013~~ (VAWA), which ~~expressly~~ prohibits the denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, ~~or~~ ~~stalking~~, ~~or human trafficking~~ [see 24 CFR 5.2005].

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16].

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a

substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

This part covers the following topics:

- Required denial of admission
- 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, or human trafficking
- Notice of eligibility or denial

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 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 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 CFR 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 in the last three 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).

HACB Policy

The HACB 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 HACB is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HACB, or the person who committed the crime is no longer living in the household.

- 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]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

HACB Policy

Currently engaged in is defined as any use of illegal drugs during the previous three 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 peaceful enjoyment of the premises by other residents.

HACB Policy

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

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

HACB Policy

HACB will deny families if any household member has ever been convicted of drug-related criminal activity for the production, manufacture, and/or sales of methamphetamine on the premises of federally assisted housing or any other property. HACB will deny families if any household member has ever been convicted of drug-related activity for the cultivation and/or sale of marijuana.

- Any household member is subject to a lifetime registration requirement under a state lifetime sex offender registration program.

HACB Policy

HACB will perform criminal background checks during the application stage to determine if any member of an applicant household is subject to a lifetime registration requirement under any state sex offender registration program. To fulfill this obligation, HACB has access to national database(s) covering sex offender registries in all states.

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require the PHA to deny admission for the reasons discussed in this section.

Criminal Activity [24 CFR 960.203 (b) and (c)]

Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points.

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.

HACB 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.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

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 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

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

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

Evidence of such criminal activity includes, but is not limited to:

~~A~~ny 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 or records of arrest 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 HACB will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the HACB may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior [960.203(c) and (d) and 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.

HACB Policy

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

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three (3) years

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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

Owes rent or other amounts to this or any other HACB or owner in connection with any assisted housing program

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, criminal history, family composition or rent

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last three (3) years.

Owes rent or other amounts to any PHA in connection with Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

When denying admission due to family debts as shown in HUD's EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. The PHA will consider the information provided by the family prior to issuing a notice of denial.

Has engaged in or threatened violent or abusive behavior toward HACB personnel

Abusive or violent behavior towards HACB 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 deny admission, the HACB will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the HACB may, on a case-by-case basis, decide not to deny admission.

The HACB will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. 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

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Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C

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.

HACB Policy

In order to determine the suitability of applicants the HACB will examine applicant history for the past three (3) years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

PHA and landlord references for the past three (3) 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. PHAs 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 ~~their~~^{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 HACB 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 HACB 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 HACB, 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 three (3) 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 or records of arrest 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.E. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

HACB-PHA Policy

The HACB-PHA 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.

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Consideration of Circumstances [24 CFR 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.

HACB Policy

The HACB 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~~, or human trafficking.

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

While a record or records of arrest will not be used as the sole basis for denial, an arrest may, ~~however~~, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the HACB may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HACB 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 acquittal

- 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

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

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 HACB 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

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, 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 deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility [24 CFR 960.203(c)(3)(i)].

HACB 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 HACB 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 24 CFR Part 8.

HACB Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the HACB will determine whether the behavior is related to the disability. If so, upon the family's request, the HACB will determine whether alternative measures are appropriate as a reasonable accommodation. The HACB will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, ~~AND STALKING,~~ AND HUMAN TRAFFICKING [24 CFR Part 5, Subpart L; 42 U.S.C. § 14043e-11(b)(1)]

The Violence against Women Act of ~~2013~~ (VAWA) prohibits denial of 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.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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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 located.

Notification

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

HACB-PHA Policy

The HACB-PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking may have an unfavorable history (e.g., a poor

credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the HACB's policies.

While the HACB is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking the applicant may inform the HACB that their status as a victim is directly related to the grounds for the denial. The HACB will request that the applicant provide enough information to the HACB to allow the HACB to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The HACB will include in its notice of denial information about protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The HACB will request in writing that an applicant wishing to claim this protection notify the HACB within 14 business days (i.e., Saturdays, Sundays, and holidays do not count).

Documentation

Victim Documentation [24CFR 5.2007]

HACB Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking the HACB will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

Perpetrator Documentation

HACB 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:

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

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~~their 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. 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 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. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

HACB Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the HACB 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 14 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the HACB to dispute the information within that 14 day period, the HACB 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.

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

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

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 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 42 U.S.C. 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 age 22;

(iii) is likely to continue indefinitely;

(iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) 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 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~~their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the PHA to determine the format and content of its applications, as well 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].

HACB Policy

Depending upon the length of time between the date of application and the availability of housing, the HACB may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and the amount of rent the family will pay.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the HACB initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. 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 from the HACB's [website or from the HACB's office](#) during normal business hours. Families may also request – by telephone or by mail – that an application form be sent to the family via first class mail [or via email](#).

Completed applications must be returned to the HACB by mail, electronically, [via email](#), by fax, or submitted in person during normal business hours.

[The HACB will also offer the option to schedule an appointment or drop off applications during early morning, evening, or weekend hours to accommodate applicants who may be unable to appear during regular business hours due to work obligations, inability to obtain child care or transportation, or other hardship reasons.](#)

Applications must be filled out completely in order to be accepted by the HACB for processing. If an application is incomplete, the HACB will notify the family of the additional information required. The family must return the completed application within 14 calendar days in order to keep the original date and time of the original application.

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

HACB Policy

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

4-II.C. 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].

HACB Policy

The HACB 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 PHA has particular preferences or other criteria that require a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

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The HACB, at its discretion, may restrict application intake, suspend application intake, and close waiting lists in whole or in part.

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The decision to close the waiting list will be based on the number of applications available for a particular size and type of unit and the ability of the HACB to house an applicant in an appropriate unit within a reasonable period of time.

When the HACB re-opens a waiting list, the HACB will use an online pre-application system for the first 30 days. Applicants will be placed on the waiting list using a computer-generated random lottery system. After the first 30 days, the application process will revert to the date-and-time paper application process.

When the HACB opens the waiting list, the HACB will advertise which program(s) applications are being accepted through public notice and in the following newspapers, minority publications and organizations:

1. Chico Enterprise-Record
2. Oroville Mercury-Register
3. Paradise Post
4. Gridley Herald
5. Butte County Department of Employment & Social Services
6. Community Action Agency
7. Catalyst Domestic Violence Services
8. Paradise Senior Center
9. The Jesus Center
10. Chico Community Shelter Partnership

11. Library

The notice will contain:

- The dates, times, and the locations where families may apply
- The name of the program(s) for which applications will be taken
- Limitations, if any, on who may apply

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the HACB address and telephone number, and referral to resources to obtain information concerning how to submit an application, information on eligibility requirements and the availability of local preferences.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. The HACB 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 HACB should specify who may apply, and where and when applications will be received.

HACB Policy

The HACB will announce the reopening of the waiting list at least 10 business 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 notice will inform applicants of the date, time, method, and place applications can be obtained and submitted, how blank applications may be obtained (e.g., from what addresses, community sites, and websites), all methods by which applications will be accepted (e.g., in person, by phone, by fax, by email), a point of contact who can answer question, any limitations on who may apply, and other information the applicant may need to successfully submit the application. The HACB will describe its prioritization system or whether it uses a lottery and will clearly state that this system will be used to place applicants on the waiting list.

To ensure that public notices broadly reach potential applicants in all communities throughout the housing market area, the HACB will distribute public notices to local community-based organizations, such as social service agencies and religious

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institutions; other online platforms for local housing news; and make use of any local newspapers of general circulation, minority media, and other suitable means.

The HACB will give public notice by publishing the relevant information using the following media outlets:

1. Chico Enterprise-Record
2. Oroville Mercury-Register
3. Paradise Post
4. Gridley Herald
5. Butte County Department of Employment & Social Services
6. Community Action Agency
7. Catalyst Domestic Violence Services
8. Paradise Senior Center
9. The Jesus Center
10. Chico Community Shelter Partnership
11. Library

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When Application Taking is Suspended/Closed

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The HACB may suspend the acceptance of applications if there are enough local preference holders to fill anticipated openings for the next twelve- (12) months.

The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

During the period when the waiting list is closed, the HACB will not maintain a list of individuals who wish to be notified when the waiting list is open.

The HACB will formally announce suspension of application taking through public notice and in the following newspapers, minority publications and other organizations:

1. Chico Enterprise-Record/Oroville Mercury-Register/Paradise Post4. Gridley Herald

The HACB will give at least five (5) business days' notice prior to closing the list. When the period for accepting applications is over, the HACB will add the new applicants to the list where they will be separated into groups by date and time; areas and unit size. The HACB will update the waiting list at least annually by removing the names of those families who are no longer interested, no longer qualify for housing, or cannot be reached by mail or telephone. At the time of initial intake, the HACB will advise families of their responsibility to notify the HACB when mailing address or telephone numbers change.

4-II.D. 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 ~~HACB~~ is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires the ~~PHA to~~ 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.

HACB Policy

The HACB will publicize and disseminate information to make known the availability of housing units and housing-related services for low and very low-income families on a regular basis.

The HACB will communicate the status of housing availability to other service providers in the community. The HACB will advise them of housing eligibility factors and guidelines in order that they can make proper referrals for those who seek housing.

When the HACB waiting list is open, the HACB will periodically publicize the availability and nature of housing assistance for low and very low-income families on its web site and in a newspaper of general circulation, including local minority publications and other suitable means.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

HACB Policy

While the family is on the waiting list, the family must inform the HACB, within 14 calendar days, of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

4-II.F. 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.

HACB Policy

The waiting list will be purged at least once a year by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest.

If an applicant fails to respond within 14 calendar days s/he will be removed from the waiting list. If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice and the envelope and letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, they must request reinstatement in writing. HACB will reinstate applicants who have been removed from the waiting list if they can demonstrate good cause. Good cause may include but is not limited to: the failure to respond due to a medical emergency, death in the family, a natural disaster, a verified error by the post office or the request for a reasonable accommodation for a person with a disability.

Notices will be made available in accessible format upon the request of a person with a disability. An extension to reply to the purge notification will be considered as an accommodation if requested by a person with a disability.

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

To update the waiting list, the HACB will send an updated request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for the program.

As part of the initial pre-application, the HACB will ask the family for their preferred methods of communication, which may include mail, phone, text message, email, or contact through a representative or service provider.

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This update request will be sent to the last address that the HACB has on record for the family as well as any additional contact methods identified by 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 list.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the HACB not later than 15 business days from the date of the HACB letter.

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

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 business days to respond from the date the letter was res-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, the HACB will contact an unresponsive applicant through all means available, which may include via mail, phone, email, and text message. The HACB will give that family a reasonable period of time to respond with their interest so as to not inadvertently remove an applicant who remains interested but may have moved, changed their contact information, or otherwise are difficult to reach. No informal hearing will be offered in such cases. Such failures to act on the part of the applicant prevent the HACB from making an eligibility determination; therefore, no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the HACB may reinstate the family if the lack of response was due to HACB error, to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse.

Removal from the Waiting List

HACB Policy

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

If the HACB determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because the HACB 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 hearing regarding the HACB's decision (see Chapter 14) [24 CFR 960.208(a)].

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)].

HACB Policy

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

4-III.B. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use.

Local Preferences [24 CFR 960.206]

PHAs are 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 [24 CFR 960.206(a)].

HACB Policy

The HACB preference is the date and time of receipt of application.

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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

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)].

HACB Policy

The HACB does have designated elderly or designated disabled housing units.

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 HACB's deconcentration policies must be 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: developments operated by a PHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a PHA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and 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 de-concentrate poverty and provide for income mixing in covered developments, the PHA must comply with the following steps:

Step 1. The PHA must 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.

HACB Policy

The HACB will determine the average income of all families in all covered developments on an annual basis.

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

HACB Policy

Families will be selected from the waiting list based on date and time of receipt of application.

When selecting applicants from the waiting list, the PHA will match characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting list. The HACB 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 PHA policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the PHA must notify the family [24 CFR 960.208].

HACB Policy

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

The notice will ~~request that the family contact the HACB to schedule an eligibility interview. HACB will communicate the following information to the applicant: inform the family of the following:~~

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

~~The family members who are required to attend the interview~~ Who is required to attend the interview.

Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

If a notification letter is returned to the HACB with no forwarding address, ~~the HACB will mail notification to the family that they have been~~ will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the HACB from making an eligibility determination; therefore no informal hearing will be offered. ~~If the family contacts the HACB in response to the notification letter, HACB will schedule an eligibility interview with the family.~~

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 PHA [Notice PIH 2018-24].

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)].

HACB Policy

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

~~The head of household must attend the initial interview and the spouse/co-head will be strongly encouraged to attend. However, if the head of household is not able to attend the initial interview and the spouse/co-head represents the family, the head will be required to attend a meeting with the HACB to certify that all information is complete and accurate prior to the offer of a housing unit. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the HACB. The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the HACB.~~

~~The head of household or spouse/co-head are required to provide an acceptable form of legal identification at the eligibility interview. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, they will be required to provide it within 14 calendar days. The interview will be conducted only if the head of household or spouse/cohead 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 HACB will allow the family to retain its place on the waiting list for 90 days. If not all household members have not disclosed their SSNs by the next time a unit becomes available, the HACB will offer a unit to the next eligible applicant family on the waiting list.

~~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 HACB will provide the family with a written list of items that must be submitted. 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 HACB will proceed with the interview. If the HACB 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 the 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 HACB 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 ~~14 calendar~~ 10 business 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 HACB will provide translation services in accordance with the HACB's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the HACB in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the HACB will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without HACB 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 HACB from making an eligibility determination; therefore the HACB will not offer an informal hearing.

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 960.208(b)].

HACB Policy

The HACB will notify a family in writing of their eligibility within ~~14 calendar~~ 10 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The HACB will expedite the administrative process for determining eligibility to the extent possible for applicants who are admitted to the public housing program as a result of an emergency transfer from another PHA program.

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 hearing on such determination [24 CFR 960.208(a)].

HACB Policy

If the HACB determines that the family is ineligible, the HACB will send written notification of the ineligibility determination within ~~14 calendar~~ 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (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 PHA's policy regarding such circumstances.

The PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (HUD Form 5382) in accordance with the Violence Against Women Reauthorization Act of 2013, and as outlined in 16-VII.C at the time the applicant is provided assistance or at the time the applicant is denied assistance. This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution) or (2) when a family is notified of its ineligibility.

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 on or placement on the public housing waiting list [24 CFR 945.303(d)].

HACB 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 HACB's satisfaction that accepting the unit offer will require the 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 HACB'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; or risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking 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 HACB will require documentation of good cause for unit refusals.

Unit Refusal Without Good Cause

HACB Policy

- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

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. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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 [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of 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)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

HACB Policy

Generally an individual who is or is expected to be absent from the assisted unit for ~~90-180~~ consecutive 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 ~~90-180~~ consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

HACB 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 HACB 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 are considered members of the family [24 CFR 5.403].

HACB Policy

If a child has been placed in foster care, the HACB 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.

Absent Head, Spouse, or Co-head

HACB Policy

An employed head, spouse, or co-head absent from the unit more than ~~90~~180 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

HACB Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, the HACB 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.

Joint Custody of Children

HACB 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 ~~51~~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 HACB will make the determination based on available documents such as school attendance records, 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

HACB Policy

The approval of a caretaker is at the HACB's discretion and subject to the HACB's screening criteria. If neither a parent nor a designated guardian remains in a household, the HACB 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 days. After the 90 days has 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 HACB 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.

~~A person who is designated as a caretaker, or who has later been appointed as a legal guardian, must meet all HACB screening and eligibility requirements before HACB will enter into a lease with the person.~~

6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows PHAs to use tenant-provided documents to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA-HACB does not determine it is necessary to obtain additional third-party data.

HACB Policy

When EIV is obtained and the family does not dispute the EIV employer data, the HACB will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the HACB will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

The HACB will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If the HACB determines additional information is needed.

In such cases, the HACB will review and analyze current data to anticipate annual 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 HACB annualized projected income.

When the HACB cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the HACB 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 HACB to show why the historic pattern does not represent the family’s anticipated income.

Known Changes in Income

If the HACB verifies an upcoming increase or decrease in income, annual income will be calculated 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/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case the HACB would calculate annual income as follows: $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$.

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 HACB will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if

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 HACB 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 HACB 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~~ [Chapter 11 on reexaminations](#)).

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

HACB Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit. Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee’s payroll check.

~~**Earned Income Disallowance.** The earned income disallowance is discussed in section 6.I.E below.~~

~~**6.I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR Federal Register 3/8/16)]**~~

~~The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 960.255 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.~~

~~**Eligibility**~~

~~This disallowance applies only to individuals in families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:~~

- ~~• Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable~~

minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- ~~Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].~~
- ~~New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.~~

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 "prior 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.

HACB 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 HACB must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

HACB Policy

During the second 12-month exclusion period, the HACB will exclude 50 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 receive assistance from a different housing agency, move between housing programs, or have breaks in assistance.

~~Individual Savings Accounts [24 CFR 960.255(d)]~~

~~HACB Policy~~

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

~~The following rules pertaining to ISAs do not apply to this public housing program:~~

~~A qualified family paying income based rent may choose an ISA instead of being given the EID. The HACB must advise the family that the ISA option is available. Families who choose the ISA will pay the higher rent and the HACB will deposit the difference between the higher rent and the EID rent in the savings account.~~

~~Amounts deposited to ISAs may only be withdrawn for the following reasons:~~

- ~~• Because the family is purchasing a home~~
- ~~• To pay education costs of family members~~
- ~~• Because the family is moving out of public or assisted housing~~
- ~~• To pay any other expenses the HACB authorizes to promote economic self sufficiency~~

~~The HACB is required to maintain ISAs in interest bearing accounts, for which the family is credited with interest earned. The HACB may not charge the family a fee for maintaining the account.~~

~~At least once each year the HACB must provide the family with a statement of the balance in their account, including any interest earned, if required by state law.~~

~~If the family moves out of public housing, the HACB must return the balance in the family's ISA, less any amounts the family owes the HACB.~~

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6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes “the net income from the operation of a business or profession. 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” [24 CFR 5.609(b)(2)].

Business Expenses

Net income is “gross income less business expense” [HCV GB, p. 5-19].

HACB Policy

To determine business expenses that may be deducted from gross income, the HACB 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 below.

Overview

~~There is no asset limitation for participation in the public housing program~~Net value of assets shall not exceed \$100,000.00 for participation in the public housing program. However, HUD requires that the PHA include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

General Policies

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to 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 PHA 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 PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

HACB Policy

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 HACB to show why the asset income determination does not represent the family’s anticipated asset income.

Valuing Assets

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.

HACB 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 [HCV GB, p. 5-28 and PH Occ GB, p. 121].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (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.)

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of ~~\$5,000~~ \$50,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the average passbook savings rate as determined by the PHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- The PHA must review its passbook rate annually to ensure that it remains within – 0.75 percent of the national average.

PHA-HACB Policy

The ~~PHA-HACB will~~ initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The PHA will review the passbook rate annually, ~~in December of each year.~~ The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

~~Changes to the passbook rate will take effect on February 1 following the December review. The effective date of changes to the passbook rate will be determined at the time of the review.~~

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property’s market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

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Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

HACB Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the HACB will count the full value of the asset. A family member has unrestricted access to an asset when ~~he or she~~ they can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the HACB will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the HACB will prorate the asset evenly among all owners.

Assets Disposed Of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The PHA may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

HACB Policy

The HACB 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 ~~\$\$5,000~~ \$50,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

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.

HACB 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.

Family Declaration

HACB 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 HACB may verify the value of the assets disposed of if other information available to the HACB does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts [PIH 2016-05]

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

HACB Policy

In determining the value of a checking account, the HACB will use the current monthly balance for accounts over ~~\$5,000~~50,000.

In determining the value of a savings account, the HACB will use the current balance, for accounts over \$50,000.

In determining the anticipated income from an interest-bearing checking or savings account, the HACB will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted 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.

HACB Policy

In determining the market value of an investment account, the HACB will use the value of the account on the most recent investment report for accounts over \$50,000.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), the HACB will calculate asset income based on the earnings for the most recent reporting period.

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Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

HACB Policy

In determining the equity, the HACB will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The HACB will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the HACB will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The **PHA-HACB** must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of the real property is the market value of the loan (mortgage) minus the expenses to convert to cash.

HACB Policy

For the purposes of calculating expenses to convert to cash for real property, the HACB will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

IRA, Keogh, and similar retirement savings accounts are will not be counted as assets, even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

HACB Policy

In determining the value of personal property held as an investment, the HACB will use the family's estimate of the value. The HACB 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.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

HACB Policy

Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

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 [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].

Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

HACB Policy

When a delayed-start payment is received and reported during the period in which the HACB is processing an annual reexamination, the HACB will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the HACB.

~~See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.~~

Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from ~~his or her~~their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2018-24].

Applying SSA COLA to Current Annual and Interim Reexaminations

Effective the day after SSA has announce the COLA. PHA's 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 1st or later of the upcoming year [Notice PIH 2018-24].

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Periodic Payments Excluded from Annual Income

Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-11].

HACB Policy

The HACB will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]

provided to any family member on a regular basis, and (3) “in-kind” contributions such as groceries and clothing provided to a family on a regular basis.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by the HACB. For contributions that may vary from month to month (e.g., utility payments), the HACB will include an average amount based upon past history.

6-1.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/14 that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].

HACB Policy

Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment is not considered student financial assistance and is included **in** annual income.

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- 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(c)(8)(ii)]
- 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(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. 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 sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

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- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).
- (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.

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family’s adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) ~~\$400~~ \$525 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical 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. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further ~~his or her~~ their education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

Anticipating Expenses

HACB Policy

Generally, the HACB will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the HACB 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 HACB 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 HACB may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head 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-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$~~400~~ ~~525~~ is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head 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 [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

HACB Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor	Cost and continuing care of necessary service animals
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Medical insurance premiums or the cost of a health maintenance organization (HMO)
Substance abuse treatment programs	
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

HACB Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACB will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member 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 ~~three-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.

HACB 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 HACB 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 HACB determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members’ incomes [PH Occ GB, p. 124].

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: “Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals” [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

HACB Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible expenses. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HACB will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.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 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~~their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

Child care 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, child care expenses for foster children that are living in the assisted family’s household, are included when determining the family’s child care expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

HACB 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 child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the HACB 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

HACB Policy

If the child care 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 child care expense being allowed by the HACB.

Furthering Education

HACB Policy

If the child care expense being claimed is to enable a family member to further ~~his or her~~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 child care claimed.

Being Gainfully Employed

HACB Policy

If the child care 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 child care 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 ~~his or her~~their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care 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 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, child care expenses are limited to \$5,000.~~

The PHA must not limit the deduction to the least expensive type of child care. 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].

HACB Policy

When the child care 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 HACB 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 tenant 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

HACB 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 HACB 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 ~~his or her~~ 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.

HACB 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 HACB will use the schedule of child care costs from the ~~local welfare agency~~ qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and the HACB will consider, justification for costs that exceed typical costs in the area.

6-II.G. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)]

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].

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than \$90,000 per year.

HACB Policy

The HACB has opted not to use permissive deductions.

PART III: CALCULATING RENT

6-III.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 CFR 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~~HACB

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

Welfare Rent [24 CFR 5.628]

HACB Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

HACB Policy

The minimum rent for this locality is \$50.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and 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~~HACB, 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 ~~HACB~~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.

HACB Policy

The HACB chooses not to adopt optional changes to income-based rents.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

If the PHA determines that a hardship exists, the TTP 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.

HACB 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.

HACB 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.

HACB 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~~HACB.

HACB Policy

The HACB 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.

HACB Policy

The HACB defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

The PHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family’s request for a hardship exemption.

When the minimum rent is suspended, the TTP 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 \$35.			
TTP – No Hardship		TTP – 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
\$350	Minimum rent	\$350	Minimum rent
Minimum rent applies.		Hardship exemption granted.	
TTP = \$350		TTP = \$15	

HACB 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 HACB 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 denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

HACB Policy

The HACB will require the family to repay the suspended amount within 30 calendar days of the HACB 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 suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family’s request for a hardship exemption.

~~At the end of the 90-day suspension period, 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. 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 all 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 denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

HACB Policy

The HACB will enter into a repayment agreement in accordance with the repayment agreement policy as stated in 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.

HACB 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/month child support payment, the hardship will continue to exist until the family receives at least \$60/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-III.C. UTILITY ALLOWANCES [24 CFR 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-HACB** 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 CFR 8]~~ and Individual Relief

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 ~~[24 CFR 8 and 100]~~. [PH Occ GB, p. 172].

Likewise, rResidents 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.

Further, the HACB may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the HACB deems appropriate. The family must request the higher allowance and provide the HACB with an explanation about the additional allowance required.

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR 965.508].

HACB Policy

The family must request the higher allowance and provide the HACB with information about the amount of additional allowance required.

The HACB will consider the following criteria as valid reasons for granting individual relief:

The family’s consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the HACB will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or HACB may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. The HACB will also provide information on utility relief programs or medical discounts (sometimes referred to as “Medical Baseline discounts”) that may be available through local utility providers.

The family must request the higher allowance and provide the HACB with information about the amount of additional allowance required.

At its discretion, the HACB may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or HACB-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

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Utility Allowance Revisions [24 CFR 965.507]

The PHA must review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

~~The PHA must review its schedule of utility allowances each year. Between annual reviews, t~~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 rates 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. Such rate changes are not subject to the 60-day notice [PH Oee GB, p- 171-24CFR 965.507(b)].

The tenant rent calculations must reflect any changes in the PHA utility allowance schedule [24 CFR 960.253(c)(3)].

HACB Policy

Between annual reviews of utility allowances, the PHA will only revise its utility allowances due to a rate change, when required to by the regulation.

~~Unless the HACB 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-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 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. Except for non-public housing over income families. 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.

HACB 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-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 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 CFR 960.253(a) and (e)]

With the exception of non-public housing over income families, once each year, the PHA-HACB 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-HACB must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

HACB Policy

The annual HACB 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 HACB 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-HACB~~ must provide sufficient information for families to make an informed choice. This information must include the ~~PHA-HACB~~ 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-HACB~~ 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 CFR 960.253(f)]

~~With the exception of non-public housing over-income families, Aa~~ 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.

HACB Policy

Upon determination by the HACB that a financial hardship exists, the HACB 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, child care, transportation, education, or similar items
- Such other situations determined by the PHA to be appropriate

HACB Policy

The HACB 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 2017-23; 24 CFR 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 2017-23 requires that flat rents must be phased in at the full 35 percent per year. PHAs do 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 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:

$$\$500 \times 1.35 = \$675$$

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 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 1.25 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.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

24 CFR 960.255 Self-sufficiency incentive – Disallowance of increase in annual income.

~~(a) Definitions.~~ The following definitions apply for purposes of this section:

~~Baseline income.~~ The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person who is a member of a qualified family.

~~Disallowance.~~ Exclusion from annual income.

~~Previously unemployed~~ includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

~~Qualified family.~~ A family residing in public housing;

~~(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;~~

~~(ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or~~

~~(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare to Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one time payments, wage subsidies and transportation assistance provided that the total amount over a six-month period is at least \$500.~~

~~(b) Disallowance of increase in annual income.~~

~~(1) Initial twelve month exclusion.~~ During the 12-month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from the annual income (as defined in § 5.609 of this title) of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

~~(2) Phase in of rent increase.~~ Upon the expiration of the 12-month period defined in paragraph (b)(1) of this section and for the subsequent 12-month period, the PHA must exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.~~(3) Maximum 2-year disallowance.~~ The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under paragraph (b)(1) of this section and a maximum of 12 months for disallowance under paragraph (b)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (b)(1) of this section.~~(4) Effect of changes on currently participating families.~~ Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date.

~~(c) Inapplicability to admission.~~ The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

~~(d) Individual Savings Accounts. As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:~~

~~(1) The PHA must advise the family that the savings account option is available;~~

~~(2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;~~

~~(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:~~

~~(i) Purchasing a home;~~

~~(ii) Paying education costs of family members;~~

~~(iii) Moving out of public or assisted housing; or~~

~~(iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;~~

~~(4) The PHA must maintain the account in an interest-bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;~~

~~(5) At least annually the PHA must provide the family with a report on the status of the account; and~~

~~(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA~~

Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2018-18]

INTRODUCTION

The ~~PHA-HACB~~ 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-HACB~~ must not pass on the cost of verification to the family.

The ~~PHA-HACB~~ will follow the verification guidance provided by HUD in Notice PIH 2018-18 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary ~~PHA-HACB~~ 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/HACB, including Violence Against Women Reauthorization Act of 2013 confidentiality requirements outlined in 46 V.I.E.,~~

PART I: GENERAL VERIFICATION REQUIREMENTS

7-1.A. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR 960.259, 24 CFR 5.230]

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 CFR 960.259(a)(1)].

Consent Forms

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. 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.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the ~~PHA~~HACB 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.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2018-18]

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.

In order of priority, the forms of verification that the HACB will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third Party Verification (may be provided by applicant or resident)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

HACB Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within sixty (60) days of the HACB request. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

The HACB 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 HACB and must be signed ~~in the presence of a HACB representative or HACB notary public.~~ by the family member whose information or status is being verified.

File Documentation

The ~~PHA~~HACB 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.

HACB Policy

The HACB 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-HACB~~ is unable to obtain third-party verification, the ~~PHA-HACB~~ will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2017-4218-18].

7-I.C. 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. UIV will be used to the extent that these systems are available to the ~~PHA-HACB~~.

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-HACB~~ has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the ~~PHA's-HACB's~~ informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

HACB Policy

The HACB will obtain income and IVT reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for

resolving discrepancies between income and IVT reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in resident files with the applicable annual or interim reexamination documents for the duration of the tenancy.

When the HACB 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.

EIV Discrepancy Reports

~~The EIV discrepancy report is a tool for identifying families that may have concealed or underreported income. Data in the discrepancy report represents income for past reporting periods and may be between six (6) and thirty (30) months old at the time reports are generated.~~

~~Families that have not concealed or underreported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.~~

~~Income discrepancies may be identified through use of the EIV “Income Discrepancy Report” or by review of the discrepancy tab for the individual family.~~

HACB Policy

~~The HACB will generate the Income Discrepancy Report at least once every 6 months.~~

~~When the HACB determines that a resident appearing on the Income Discrepancy Report has not concealed or underreported income, the resident’s name will be placed on a list of “false positive” reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed.~~

~~The HACB will review the EIV discrepancy tab during processing of annual and interim reexaminations.~~

~~When it appears that a family may have concealed or underreported income, the HACB will request independent written third party verification of the income in question.~~

~~When the HACB determines through file review and independent third party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.~~

EIV Identity Verification

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 EIV [Notice PIH 2018-18].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

HACB Policy

The HACB will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis. The HACB will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When the HACB determines that discrepancies exist as a result of HACB errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

HACB Policy

The HACB will inform all applicants and residents of its use of the following UIV resources during the admission and reexamination process:

HUD's EIV system

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2018-18]

Written third-party verification documents must be original and authentic and 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: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.
- The **PHA-HACB** is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.
- The **PHA-HACB** 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.

HACB Policy

Third-party documents provided by the family must be dated within sixty (60) days of the HACB request date.

If the HACB determines that third-party documents provided by the family are not acceptable, the HACB will explain the reason to the family and request additional documentation.

As verification of earned income, the HACB will require the family to provide the two most current consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

- PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

HACB Policy

The HACB will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the HACB.

Oral Third-Party Verification [Notice PIH 2018-18]

- For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.
- Oral third-party verification is mandatory if neither form of written third-party verification is available.
- 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., 44-10 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.

HACB Policy

In collecting third-party oral verification, HACB 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 HACB 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 2018-18]

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.

HACB Policy

If the family cannot provide original documents, the HACB 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.

Imputed Assets

The PHA may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

HACB Policy

The HACB 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].

Value of Assets and Asset Income [24 CFR 960.259]

For families with net assets totaling \$50,000 or less, the PHA will 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.

HACB Policy

For families with net assets totaling \$50,000 or less, the HACB 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 HACB will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

7-I.E. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or "tenant declaration," is used as a last resort when the **PHA-HACB** is unable to obtain third-party verification.

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-HACB has adopted a policy to accept self-certification at annual recertification, when applicable
- The PHA-HACB has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 9)

When the PHA-HACB was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family’s file must be documented to explain why third-party verification was not available.

HACB Policy

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 HACB.

The HACB 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 HACB and must be signed by the family member whose information or status is being verified. ~~All self-certifications must be signed in the presence of a HACB representative or HACB notary public.~~

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

HACB Policy

The HACB 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	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicle identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
Current U.S. passport	Certified school records
Current <u>government</u> employer identification card <u>with picture</u>	

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 HACB'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 HACB and be signed ~~in the presence of a HACB representative or HACB notary public~~ 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 PHA has reason to doubt the identity of a person representing ~~him or herself~~ themselves to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2018-24]

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, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

HACB Policy

The HACB 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 HACB within 90 days.

If an applicant family includes a child under 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 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.

HACB Policy

The HACB will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

- When a resident requests to add a new household member, 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-HACB~~ may not add the new household member until such documentation is provided.

- When a resident requests to add a new household member, 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-HACB~~ 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-HACB~~ is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

HACB Policy

The HACB 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.

HACB Policy

The HACB 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-HACB~~ 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.

HACB Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the HACB will not 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.

HACB Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HACB 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.

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.

HACB 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

HACB Policy

Certification by the head of household is normally sufficient verification. If the HACB has reasonable doubts about a marital relationship, the HACB will require the family to document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

HACB Policy

Certification by the head of household is normally sufficient verification. If the HACB has reasonable doubts about a divorce or separation, the HACB 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 court-ordered maintenance or other court record; 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

HACB 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), if the HACB so requests.

Foster Children and Foster Adults

HACB Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

HACB Policy

The HACB 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 child care deduction to enable a family member to further ~~his~~ ~~or her~~ their 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 CFR 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 www.os.dhhs.gov.

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].

HACB Policy

For family members claiming disability who receive disability payments from the SSA, the HACB 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 HACB will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the HACB 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~~ they will be required to provide the letter to the HACB.

granted, age, and the date on which the family began receiving HUD-funded assistance. 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 Chapter 7-II.C. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the HACB 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-HACB~~ must verify any preferences claimed by an applicant that determined ~~his or her~~ placement on the waiting list.

HACB Policy

The HACB preference is the date and time of receipt of the 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

HACB 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

HACB 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

HACB 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 HACB 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 HACB 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 HACB 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 HACB 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

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

Social Security/SSI Benefits

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 60 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 60 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the

family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

- Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

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HACB Policy

~~To verify the SS/SSI benefits of applicants, the HACB will request a current (dated within the last 120 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 HACB 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 PHA.~~

~~To verify the SS/SSI benefits of residents, the HACB 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 HACB 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 HACB 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 PHA.~~

7-III.D. ALIMONY OR CHILD SUPPORT

HACB Policy

The methods the HACB will use to verify alimony and child support payments differ 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.

Copies of the receipts and/or payment stubs for the 60 days prior to HACB request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

HACB Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HACB will verify:

The anticipated repayment schedule

The amounts paid in the past, and

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

HACB Policy

~~The HACB will accept written third party documents provided by the family.~~

~~If family provided documents are not available, the HACB will provide a third party verification form directly to the care provider requesting the needed information.~~

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

HACB 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:

- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care 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 the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

HACB Policy

The family and the care provider will be required to certify that the child care 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.

HACB Policy

Information to be Gathered

The HACB 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 HACB will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HACB will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit any reports provided to the other agency to the HACB.

In the event third-party verification is not available, the HACB will provide the family with a form on which the family member must record job search efforts. The HACB will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HACB will request third-party documentation to verify that the person permitted to further ~~his or her~~ their education by the child care 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 HACB 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

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart 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 policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections. This part describes the PHA policies for inspecting dwelling units.

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 CFR 966.4(a)(2)].

PHAs must adopt smoke-free policies, which ~~must be implemented~~ HUD required to be implemented no later than July 30, 2018. The policy is attached as Exhibit 8-1.

PHAs must include in the ACOP residential minimum heating standards policies [Notice PIH 2018-19]. The policy is included in Part I of this chapter.

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.

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8-I.B. LEASE ORIENTATION

HACB Policy

After unit acceptance but prior to occupancy, a HACB representative will conduct a lease orientation with the family. The head of household or spouse is required to attend.

Orientation Agenda

HACB Policy

When families attend the lease orientation, they will be provided with:

- A copy of the lease
- A copy of the HACB's grievance procedure
- A copy of the house rules
- A copy of the HACB's schedule of maintenance charges
- 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
- 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
- A copy of the form HUD-5380, VAWA Notice of Occupancy Rights
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- A copy of the PHA's smoke free policy
- A notice that includes the procedures for requesting relief and the PHA's criteria for granting requests for relief for excess utility surcharges
- [The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."](#)
- Addendum's to the lease addressing smoke detectors and mold.

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Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges
- Review and explanation of lease provisions
- Unit maintenance requests and work orders
- The HACB's interim reporting requirements
- Review and explanation of occupancy forms
- Community service requirements
- Family choice of rent
- VAWA protections
- Smoke-free policies
- Unit inspections

8-I.C. EXECUTION OF LEASE

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 CFR 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 CFR 966.5].

HACB Policy

When the HACB proposes to modify or revise schedules of special charges or rules and regulations, the HACB 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

HACB 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 HACB will be required to initial and date the change.

If a new household member is approved by the HACB to reside in the unit, the person's name and birth date will be added to the lease. The head of household and HACB will be required to initial and date the change. If the new member of the household is an adult, s/he 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 CFR 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~~HACB. 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.

HACB Policy

Residents must pay a security deposit to the HACB at the time of admission.

The amount of the Security Deposit required is:

- 1-BR \$375
- 2-BR \$450
- 3-BR \$600

4-BR \$700
5-BR \$800

PHA approval is required before the pet is permitted to occupy and will require an increase in the Security Deposit. (See Chapter 10, Pet Policy).

The PHA may permit installment payments of security deposits when a new tenant demonstrates a financial hardship to the satisfaction of the PHA-HACB. However, no less than one-third (1/3) of the required deposit must be paid before occupancy. The security deposit payment will be due on the 15th (fifteenth) of each month until paid in full. Renegotiation of the security deposit installment payments will be up to the discretion of the PHA-HACB if it is a financial hardship to pay the security deposit in three (3) payments or less.

The deposit must be paid within sixty (60) calendar days. If not paid, a fourteen (14) day notice will be served. Payments shall be applied to security deposit agreements before rent.

The PHA will hold the security deposit for the period the tenant occupies the unit.

The PHA will refund to the Tenant the amount of the security deposit, less any amount needed to pay the cost of:

1. Unpaid Rent
2. Damages listed on the Move-Out Inspection Report that exceed normal wear and tear
3. Other charges under the Lease
4. Unpaid utility bills charged to the PHA that are the tenant's responsibility

The PHA-HACB will refund the Security Deposit, less any amounts owed, within twenty-one (21) calendar days after vacation of the unit and notification of the new address.

The PHA will provide the tenant or the person designated by the former tenant in the event of the former tenant's incapacitation. The resident must leave the dwelling unit in a clean and undamaged (beyond normal wear and tear) condition and must furnish a forwarding address to the PHA. All keys to the unit must be returned to PHA upon vacating the unit.

The PHA will not use the security deposit for payment of rent or other charges while the tenant is living in the unit.

If the tenant transfers to another unit, a new security deposit will be required that is applicable to the new unit leased.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 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.

HACB Policy

The tenant rent is due and payable at the HACB-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the HACB 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 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 CFR 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 a notice of adverse action [24 CFR 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 CFR 966.4(e)(8)].

HACB Policy

If the tenant fails to make payment by the fifth (5th) business day of the month, and the HACB 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. ~~Combination Fourteen-Day Notice to Pay Rent or Quit and a Three-Day notice to Pay Rent or Quit will be delivered to the Tenant. The three (3) days' notice is intended to and does run concurrently with the fourteen (14) days' notice and that the three (3) day period shall expire at the end of fourteen (14) day period. If payment is not received within 14 days and the family fails to respond to HACB's requests, an unlawful detainer (eviction) will be filed.~~

In addition, if the resident fails to make payment by the end of office hours on the fifth 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 by the 15th of the month. If the family requests a grievance hearing within the required timeframe, the HACB 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 by the 15th of the month. In cases of insufficient funds,

The PHA is located in an area where state or local residential heating standards exist and will utilize those standards for public housing units. Therefore, the PHA's minimum heating standards are as follows:

Minimum temperature:

If the PHA controls the temperature, the minimum temperature in each unit must be at least [insert degrees Fahrenheit]. If the resident controls the temperature, the heating equipment must have the capability of heating to at least [insert degrees Fahrenheit].

Minimum temperature capability:

[If PHAs are allowed flexibility maintaining the indoor temperature when the outdoor temperature approaches the design day temperature, insert criteria for when flexibility applies and the minimum temperature threshold that the indoor temperature should never fall below. Note, the design day temperature refers to the lowest expected outdoor temperature a heating system was designed to accommodate.]

Measurement:

Temperature measurements must be taken according to the following methodology: [insert methodology for taking temperature measurements].

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD regulations require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the PHA may require additional inspections, in accordance with PHA Policy. This part contains the PHA policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 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.

HACB Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 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 ~~he or she wishes~~they wish, unless the tenant vacates without

Building exteriors, grounds, common areas and systems will be inspected according to the HACB maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 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 days before such entry is considered reasonable advance notification.

HACB Policy

The HACB 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 ten (10) days 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 HACB 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 CFR 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 Inspections

HACB Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the HACB at least 24 hours prior to the scheduled inspection. The HACB will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The HACB may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

HACB Policy

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Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if ~~he or she wishes~~ they wish.

If no one is at home, the inspector will enter the unit and conduct the inspection. Families will be notified of the inspection results.

8-II.D. INSPECTION RESULTS

The PHA is obligated to maintain dwelling units and the project grounds in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 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.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. 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.

HACB Policy

When conditions in the unit are hazardous to life, health, or safety, the HACB will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors and carbon monoxide alarms

[In in situations where the unit or building has a fuel burning appliance or an attached garage, missing or inoperable carbon monoxide detectors](#)

Non-emergency Repairs

HACB Policy

The HACB will correct non-life threatening health and safety defects within fifteen (15) business days of the inspection date. If the HACB is unable to make repairs within that period due to circumstances beyond the HACB's control (e.g. required parts or services are not available, weather conditions, etc.) the HACB will notify the family of an estimated date of completion.

The family must allow the HACB 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.

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Resident-Caused Damages

HACB 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

HACB 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 HACB will provide proper notice of a lease violation.

A re-inspection will be conducted within 30 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.

Carbon Monoxide (CO) Alarms

HACB Policy

Health and Safety Code Section 17926 requires owners of all dwellings intended for human occupancy that contain a fossil fuel burning heater or appliance, fireplace, or an attached garage to install carbon monoxide (CO) alarms. The CO alarms must be either battery-powered or plug in with a battery backup. CO alarms must be installed outside of sleeping areas and on every level of a dwelling, including the basement

Carbon Monoxide (CO) Alarms in single-family properties are required by law in the State of California, effective July 1, 2011.

- **Control:** The PHA must ensure that any lead-based paint hazards identified by the environmental investigation are controlled within 30 calendar days by a certified lead-based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards.
- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the PHA must notify all residents of lead evaluation and hazard control activities.
- **Follow-up notification:** The PHA must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of each activity.
- **Ongoing maintenance and reevaluation:** As already required by the LSHR in sections 35.1120(c) and 35.1355(a), after the work passes clearance, the PHA must ensure that the unit and common areas are maintained as lead-safe for continued occupancy,, which includes no deteriorated paint or failed lead hazard control methods. As also already required by the LSHR in section 35.1355(b), the PHA must generally conduct periodic reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust lead hazards, and soil-lead hazards in newly-bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

The following table summarizes the responsibilities of PHA for compliance when a child in the public housing program is identified with an EBLL.

Activity	Responsible Entity
	PHA
Initial notification to HUD of confirmed case	√
Verification, when necessary	√
Initial notification of confirmed case to public health department	√

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Environmental Investigation	√
Lead Hazard Control	√
Clearance after work completed	√
Follow-up notification to HUD	√
Notification to other residents	√
Ongoing LBP Maintenance	√
Ensuring compliance with LSHR	√

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**EXHIBIT 8-2: OPTIONAL PHA OR OWNER'S ELEVATED BLOOD LEAD LEVEL
CASE CHECKLIST**

This checklist is intended as a courtesy for optional use by a public housing authority (PHA) or Owner in tracking the main steps for responding to an elevated blood lead level (EBLL) case; it is not intended to be submitted to the HUD Field Office nor the HUD Office of Lead Control and Health Homes.

PHA code (if applicable):

PHA or owner name:

Date of EBLL test result:

Program: Public Housing Housing Choice Voucher Project-based Voucher
Dwelling unit address and (if applicable) development name:

Required Steps:

Verify EBLL case report with medical provider or health department, if report came from elsewhere.

Maintain confidentiality for all records related to the EBLL, and ensure the identity of the child or family is not disclosed to other residents in the multiunit property.

Notify HUD field office contact and LeadRegulations@hug.gov of EBLL case within 5 days (either directly or through PHA).

Engage certified lead risk assessor to perform environmental investigation of child's unit within 15 days.

Notify residents of child's unit of results of environmental investigation within 15 days directly, but not by posting in common area.

If lead-based paint hazards are found in the child's unit or in a common area servicing that unit in a multiunit property, engage a certified lead abatement professional or certified renovation firm to control the hazards, and a certified lead risk assessor to conduct risk assessments of other assisted dwelling units with a child under age six ("other covered units").

In a multiunit property, notify residents that lead-based evaluation will be performed.

If lead-based paint hazards are identified in other covered units, engage a certified lead abatement professional or certified renovation firm, and notify other residents of the results of the risk assessment and that lead hazard control work will be performed.

Ensure adequate occupant protection, including temporary relocation for EBLL family and/or other families, when required, until their dwelling unit passes clearance.

Complete lead hazard control in child's unit and common area servicing that unit if lead-based paint hazards are identified, within 30 days of receiving environmental investigation report.

___ Complete lead hazard control in other covered units and common areas servicing those units if lead-based paint hazards are identified, within 30 days of receiving environmental investigation report, if up to 20 other covered units, or 90 days, if over 20 other covered units.

___ Ensure all dwelling units and common areas that received lead hazard control pass clearance as determined by a certified risk assessor.

___ In multiunit property, notify other residents that lead hazard control work was completed, and results.

___ Provide all documentation to the HUD field office contact in 10 business days.

___ Disclose information about lead-based paint hazards and all new records and report to residents upon lease initiation or renewal (if not already disclosed).

Chapter 9

REEXAMINATIONS

[24 CFR 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 CFR 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 ~~three~~ 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.

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]

9-1.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 CFR 960.257(a)(1)]. 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~~-three years [24 CFR 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 purpose 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 CFR 960.259].

This part contains the PHA's policies for conducting annual reexaminations.

9-1.B. STREAMLINING ANNUAL REEXAMINATIONS [24 CFR 960.257]

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 rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of 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. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

HACB Policy

The HACB will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The HACB will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the HACB will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the HACB will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

9-I.C. 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 CFR 960.257(a)(1)].

HACB Policy

Generally, the HACB will schedule annual reexaminations to coincide with the family's anniversary date. The HACB will begin the annual reexamination process approximately 120 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 HACB will not change the annual reexamination date.

The HACB 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].

HACB 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 HACB 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 HACB in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the HACB will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HACB 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.D. 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)].

HACB 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 HACB-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, 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 +4-10 calendar 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

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 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

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.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the HACB chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACB.

If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent 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 HACB by the date specified, and this delay prevents the HACB from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS **[24 CFR 960.257(~~23(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~~-three years [24 CFR 960.257(~~a~~)(~~23(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 CFR 960.253(e)(2)].

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

HACB Policy

For families paying flat rents, the HACB will conduct a full reexamination of family income and composition once every ~~3~~-three years.

Reexamination Policies

HACB Policy

In conducting full reexaminations for families paying flat rents, the HACB 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.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)

As noted above, full reexaminations are conducted every ~~3~~³-three 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 CFR 960.257(a)(2)].

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 CFR 960.257(a)(2)].

HACB Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the HACB 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)].

HACB Policy

The family will be required to attend an interview for an annual update.

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 HACB. The family will have 14 calendar days to submit the required information to the HACB. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The HACB will accept required documentation by mail, by fax, by email, or in person.

If the family’s submission is incomplete, or the family does not submit the information in the required time frame, the HACB will send a second written notice to the family. The family will have 14 calendar days from the date of the second notice to provide the missing information or documentation to the HACB.

The HACB will not approve the addition of a new family or household member unless the individual meets the HACB's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the HACB determines that an individual does not meet the HACB's eligibility criteria or documentation requirements, the HACB 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 HACB will make its determination within 14 calendar days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

HACB Policy

If a family member ceases to reside in the unit, the family must inform the HACB within 14 calendar days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HACB within 14 calendar days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can 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. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

HACB 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.

PHA-initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

HACB Policy

The HACB will conduct interim reexaminations in each of the following instances:

~~For families receiving the Earned Income Disallowance (EID), the HACB will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the 24-month eligibility period.~~

If the family has reported zero income, the HACB will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the HACB will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the PHA'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 PHA 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 PHA.

The chapter is organized as follows:

Part I: Assistance Animals. This part explains the difference between assistance animals, including service and support animals, and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees for elderly/disabled developments. This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

Part IV: Pet deposits and fees for general occupancy developments. This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

PART I: 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~~ 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 PHA's 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 if the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on assistance ~~animals.~~ 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).

A-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 ASSISTANCE ANIMALS [Notice FHEO 2020-01]

Notice FHEO 2020-01 states that the PHA 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.

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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, under the ADA, 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-HACB already has information giving them reason to believe the person has a disability, or the person has provided information supporting that ~~he or she has~~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 ~~his or her~~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

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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)].

HACB 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 HACB 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 a PHA may have to regulate assistance animals, including service animals, under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

HACB Policy

Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals. A resident may do this on ~~his or her~~their own or with the assistance of family, friends, volunteers, or service providers.

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that 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 an assistance animal violates these policies, the HACB will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the HACB determines that no such accommodation can be made, the HACB may withdraw the approval of a particular assistance animal.

and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the HACB refuses to register a pet, a written notification will be sent to the pet owner within ~~14~~10 calendar days of the HACB 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 HACB grievance procedures.

Pet Agreement

HACB Policy

Residents who have been approved to have a pet must enter into a pet agreement with the HACB, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that ~~he or she has~~they have received a copy of the HACB pet policy and applicable house rules, that ~~he or she has~~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 ~~he or she~~they understands that noncompliance with the HACB pet policy and applicable house rules may result in the withdrawal of HACB approval of the pet or termination of tenancy.

10-II.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
- Cat declawing is not a requirement or condition of pet ownership in public housing and HUD encourages PHAs to refrain from engaging in this practice [New PH OCC GB, *Pet Ownership*, p. 9].
-

PHAs may not require pet owners to have any pet's vocal cords removed.

PHAs may not require pet owners to obtain or carry liability insurance.

~~PHAs may not require that cats be declawed.~~

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)].

HACB 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 (except turtles)

Rodents (except rabbit, guinea pig, hamster or gerbil)

Insects

Arachnids

Wild animals or feral animals

Pot-bellied pigs

Animals used for commercial breeding

~~Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations~~

~~Chickens and roosters~~

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Pet Restrictions

HACB Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 25 pounds

~~Dogs of the pit bull, rottweiler, chow, or boxer breeds~~

~~Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations~~

Any animal not permitted under state or local law or code

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Number of Pets

HACB Policy

Residents may own a maximum of two (2) pets, only one (1) of which may be a dog

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 25-10 gallons. Such a tank or aquarium will be counted as one (1) pet.

Other Requirements

HACB Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be

The pet owner shall be responsible for the removal of waste from the exercise or any common area by placing it in a sealed plastic bag and disposed in an appropriate receptacle.

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

HACB 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

HACB 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

HACB Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her/their pet.

Each pet owner shall be responsible for appropriately training and caring for his/her/their pet to ensure that the pet is not a nuisance or danger to other residents and does not damage HACB property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

HACB Policy

The pet owner will be required to designate one responsible party 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 HACB and sign a statement that they agree to abide by all of the pet rules.

Inspections and Repairs

HACB Policy

Except for emergencies, management will not enter the dwelling unit for performance of repairs or inspections where a pet resides unless accompanied for the entire duration of the inspection or repair by the pet owner or responsible person designated by the pet owner. The pet must be held under physical restraint by the pet owner or responsible person until management has completed its tasks. Any delays or interruptions suffered by management in the inspection, maintenance, and upkeep of the premises due to the presence of a pet may be cause for lease termination.

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Pets Temporarily on the Premises

HACB 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 HACB.

Pet Rule Violations

HACB Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

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.

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 14 calendar days from the effective date of the service of notice to correct 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~~ their choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

Notice for Pet Removal

HACB Policy

If the pet owner and the HACB are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the HACB, the HACB may serve notice to remove the pet.

The notice will contain:

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes the PHA's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.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 maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

HACB Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit for dogs and cats is \$150 for cinder block units and \$200 for all other housing units. HACB may permit the pet deposit to be paid in three equal installments.

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.

HACB Policy

The HACB will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within ~~21~~30 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.

The HACB will provide the resident with a written list of any charges against the pet deposit within ~~21~~10 calendar days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the HACB will provide a meeting to discuss the charges.

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

HACB Policy

The HACB will consider twenty (20) 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 HACB 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 HACB is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP) or Cal Fresh, and has not been found by the state or other administering entity to be in noncompliance with such program.

- Is a member of a non-public housing over-income family.

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 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.

HACB Policy

Where the lease term does not coincide with the effective date of the annual reexamination, the HACB will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the HACB 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)].

HACB Policy

At least 60 days prior to lease renewal, the HACB 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 HACB 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 HACB 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 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~~their service obligation.

HACB Policy

Approximately ~~120-60~~ days prior to the end of the lease term, the HACB 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 ~~14-10 business calendar~~ 14-10 business days to submit the HACB required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or HACB 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

HACB Policy

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the twelve (12) month lease term, it is the family's responsibility to report this change to the HACB within ~~14 calendar~~ 10 business days.

Within ~~14 calendar~~ 10 business days of a family reporting such a change, or the HACB determining such a change is necessary, the HACB 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, ~~he or she~~ they must perform 8 hours of community service for the months he or she is subject to the requirement before the end of the lease term (anniversary date).

Example 1: Alberto Jones turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

- Mr. Jones must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2: Lisa Dewhurst leaves her job on 9/20/14 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/14, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/15.

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, 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 HACB within 14 calendar days. Any claim of exemption will be verified by the HACB in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement and families determined to be over-income for 24 consecutive months.—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)].

PHAs may not evict a family due to CSSR noncompliance. However, if PHA finds a tenant is noncompliant with CSSR, the PHA must provide written notification to the tenant of 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 determination, in accordance with the PHA grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA non-renewal of the lease because of the PHA determination.

HACB Policy

The notice of initial noncompliance will be provided to the family at their annual reexamination appointment.

The family will have 14 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 HACB 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 known.

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 14 calendar days, the HACB 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 (see 24 CFR 966.53(c)) for failure to comply with 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 non-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.

HACB Policy

Notices of continued noncompliance will be sent at least 60 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 ~~14 calendar~~ 10 business 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 HACB 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 ~~14 calendar~~ 10 business days, 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 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].

HACB Policy

The HACB will notify its insurance company if residents will be performing community service at the HACB. In addition, the HACB 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 HACB will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

Security Act), and who certifies that because of this disability ~~he or she is~~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) or Cal-Fresh, and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a member of a non-public housing over-income family.

PHAs 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 equivalency, 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

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, ~~he or she~~they, 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.

4. Change in exempt status:

- If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is ~~his or her~~their 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~~their 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.
- At annual reexamination, the family must also sign a certification certifying that they understand the community service requirement.

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) 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

EXHIBIT 11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the PHA 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 ~~he or she~~ they is 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 PHA 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 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) or Cal Fresh, 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 PHA Official _____
Date

~~The VAWA 2013 final rule~~ requires the PHA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking.

HACB-PHA Policy

The following are considered emergency circumstances warranting an immediate transfer of the tenant or family:

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. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

A verified incident of domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking. For instances of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking the threat may be established through documentation outlined in section 16-VIII.D. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP), although, the HACB may waive this requirement in order to expedite the transfer process.

The HACB-PHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking. The HACB will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The HACB defines *immediately* available as a vacant unit that is ready for move-in within a reasonable period of time. The HACB will review on a case by case basis. If an internal transfer to a safe unit is not immediately available, the HACB will assist the resident in seeking an external emergency transfer either within or outside the HACB's programs.

The PHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

12-I.C. EMERGENCY TRANSFER PROCEDURES

HACB Policy

Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours.

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the HACB will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted.

If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the HACB will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers that arise due to maintenance conditions are mandatory for the tenant.

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If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking, the HACB will follow procedures outlined in Exhibit 16-4.

12-I.D. COSTS OF TRANSFER

HACB Policy

The HACB will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions.

HACB will provide reasonable cost of transfers including the cost of packing, moving, and unloading if requested by the tenant.

The HACB will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the HACB will collect information from companies in the community that provide these services.

The HACB will reimburse the family for eligible out-of-pocket moving expenses up to the HACB established moving allowance.

PART II: PHA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the PHA to develop reasonable transfer policies.

The PHA may require that a resident transfer to another unit under some circumstances. For example, the PHA may require a resident to transfer to make an accessible unit available to a disabled family. The PHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a PHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the PHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF PHA-REQUIRED TRANSFERS

HACB Policy

The types of transfers that may be required by the HACB, 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 HACB 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)].

- The family is current in rent and lease compliant.

Demolition, Disposition, Revitalizations, or Rehabilitation, Including Rental Assistance Demonstration (RAD) Conversion-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].

HACB Policy

The HACB 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 HACB 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 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-II.C. 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.

12-II.D. COST OF TRANSFER

HACB Policy

The HACB will bear the reasonable costs of transfers that the HACB requires, except that residents will be required to bear the cost of occupancy standards transfers.

HACB will provide reasonable cost of transfers including the cost of packing, moving, and unloading if requested by the tenant.

The HACB will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the HACB will collect information from companies in the community that provide these services.

The HACB will reimburse the family for eligible out-of-pocket moving expenses up to the HACB established moving allowance.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides the PHA with discretion to consider transfer requests from tenants. The only requests that the PHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the PHA. To avoid administrative costs and burdens, this

Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the HACB advantage to make the transfer.

Exceptions will also be made when the HACB determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, ~~or~~ ~~stalking~~, ~~or~~ ~~human trafficking~~ and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP. Tenants who are not in good standing may still request an emergency transfer under VAWA.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two (2) years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

HACB Policy

When a family transfers from one unit to another, the family is required to pay the appropriate security deposit to the new unit. The exception to this policy is when the family is transferred due to rehabilitation, demolition or revitalization of the development.

12-III.E. COST OF TRANSFER

The PHA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2010-26].

HACB Policy

The resident will bear all of the costs of transfer s/he requests. However, the HACB will bear the transfer costs when the transfer is done as a reasonable accommodation.

12-III.F. HANDLING OF REQUESTS

HACB Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In order to request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP). The HACB may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the HACB accepts an individual's statement, the HACB will document acceptance of the statement in the individual's file in accordance with 16-VII.D of this ACOP. Transfer requests under VAWA will be processed in accordance with the PHA's Emergency Transfer Plan (Exhibit 16-3). In case of a reasonable accommodation transfer, the HACB will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the HACB

will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The HACB will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking in accordance with section 16-VII.D of this ACOP..

If the family does not meet the “good record” requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

The HACB will respond within 14 calendar days of the submission of the family’s request. If the HACB denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

12-IV.B. TRANSFER LIST

HACB Policy

The HACB will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous conditions, VAWA)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other HACB -required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

HACB may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow the HACB to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

HACB Policy

Residents will receive one offer of a transfer.

When the transfer is required by the HACB, the refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases, the family must wait six months to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

HACB Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the 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 HACB 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; or risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking 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.

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

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 the 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 and families that have been over the income limit for 24 consecutive months.

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.

Should a PHA discover that a member of an assisted household was subjected 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.

13-11.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 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.

13-11.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.

13-11.J. OVER INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2019-11; 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.

The PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.

PHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, the PHA 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 2019-11]

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.

PHA Policy

The PHA 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.

<u>Family Size</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>Over-Income Limit</u>								

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.

PHA 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 PHA 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 PHA will notify the family in writing within 10 business 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)]

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.

PHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days the PHA will notify the family in writing of the determination and that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA's over-income policies. The notice will state that the family may request a hearing if the family disputes the PHA's determination in accordance with PHA policies in Chapter 14.

Second Notice of Over-Income Status [24 CFR 960.507(c)(2)]

The PHA must conduct an income examination 12 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. 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.

PHA Policy

If a family's income exceeds the applicable over-income limit after 12 consecutive months, within 10 business days, the PHA will notify the family in writing of the determination and that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA'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 PHA's determination in accordance with PHA policies in Chapter 14.

Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509]

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. 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.

PHA Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, the PHA will notify the family in writing of the determination within 10 business days of the date of the determination. The notice will state that the family will be charged the alternative non-public housing rent in accordance with PHA 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 PHA 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 this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. The PHA 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 PHA 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 non-public housing over-income 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 PHA 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 pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the PHA in accordance with HUD regulations. The PHA 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.

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.

HACB Policy

The HACB will terminate the lease if the HACB 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 three months.

The HACB will consider all credible evidence, including but not limited to, any record of convictions of household members related to the abuse of alcohol.

A record or records of arrest 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 HACB 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 HACB 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 CFR 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.

HACB Policy

The HACB will terminate the lease if the HACB 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 HACB will consider all credible evidence, including but not limited to, any record of 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 HACB 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 HACB 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 CFR 966.4(l)(2)(i) and 24 CFR 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, or human trafficking may not be construed as serious or repeated

violations of the lease by the victim or threatened victim ~~of such violence or stalking~~ [Pub.L. 109-162].

HACB Policy

The HACB 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 rent or other charges. Two (2) late payments within a 6-month period or three (3) late payments within a 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 HACB 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 members 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 HACB 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 HACB may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 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 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the HACB may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the HACB to only those examples. The Violence against Women ~~Reauthorization Act of 2005 explicitly~~ prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, ~~or stalking, or human trafficking~~ as “other good cause” for terminating the assistance, tenancy or occupancy rights of the victim or threatened victim of such violence [\[see 24 CFR 5.2005\(c\)\(1\)\]](#).

HACB Policy

The HACB 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 HACB 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 HACB that such a dwelling unit is available

Failure to permit access to the unit by the HACB 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 HACB of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 14 calendar days of the event.

Failure to abide by the provisions of the HACB pet policy

If the family has breached the terms of a repayment agreement entered into with the PHA

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 HACB personnel.

Abusive or violent behavior towards HACB 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 HACB 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 HACB may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

HACB Policy

The family must supply any information or certification requested by the HACB to verify that the family is living in the unit, or relating to family absence from the unit, including any HACB-requested information or certification on the purposes of family absences. The family must cooperate with the HACB for this purpose.

The family must promptly notify the HACB 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 14 calendar days of the start of the extended absence.

If a family is absent from the public housing unit for more than 30 consecutive days, and the family does not adequately verify that they are living in the unit, the HACB 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 HACB will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the HACB will secure the unit immediately to prevent vandalism and other criminal activity.

Over-Income Families [24 CFR 960.261; FR Notice 07/26/18; PHH Notice 2019-11]

~~The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over-income requirement states that after a family's adjusted income has exceeded 120 percent of area median income (AMI) (or a different limitation established by the secretary) for two consecutive years, the PHA must either terminate the family's tenancy within six months of the determination, or 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, as determined by regulations.~~

~~Notice PIH 2019-11 also requires that PHAs 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.~~

~~PHAs also have discretion, under 24 CFR 960.261, to adopt policies allowing termination of tenancy for families whose income exceeds the limit for program eligibility. Such policies would exempt families participating in the Family Self-Sufficiency (FSS) program or currently receiving the earned income disallowance.~~

~~HACB Policy~~

~~At annual or interim reexamination, if a family's adjusted income exceeds the applicable over-income limit, the HACB will document the family file and begin tracking the family's over-income status.~~

~~If one year after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the HACB will notify the family in writing that their income has exceeded the over-income limit for one year, and that if the family continues to be over-income for 12 consecutive months, the family will be subject to the HACB's over-income policies.~~

~~If two years after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the HACB will charge the family a rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit. The HACB will notify the family in writing of their new rent amount. The new rent amount will be effective 30 days after the HACB's written notice to the family.~~

~~If, at any time, an over-income family experiences a decrease income, the family may request an interim redetermination of rent in accordance with HACB policy. 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 HACB will notify the family in writing that over-income policies no longer apply to them. If the family's income later exceeds the over-income limit again, the family is entitled to a new two-year grace period.~~

~~The HACB will begin tracking over-income families once these policies have been adopted but no later than March 24, 2019.~~

~~The HACB will not evict or terminate the tenancies of families whose income exceeds the income limit for program eligibility as described at 24 CFR 960.261.~~

~~The PHA 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	1	2	3	4	5	6	7	8
Over-Income Limit								

~~For families larger than 8 persons, the over-income limit will be calculated by multiplying the applicable very low income limit by 2.4.~~

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 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, or human trafficking-~~

HACB Policy

The HACB 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 HACB request.

Repayment of Family Debts

HACB Policy

If a family owes amounts to the HACB, as a condition of continued occupancy, the HACB will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the HACB 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 CFR 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 convicted, and without satisfying the standard of proof used for a criminal conviction.

HACB Policy

The HACB 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 CFR 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.

HACB Policy

The HACB will consider the following facts and circumstances 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 or human trafficking

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 HACB failure to terminate the tenancy

The effect of the HACB 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

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the HACB will determine whether the behavior is related to the disability. If so, upon the family's request, the HACB will determine whether alternative measures are appropriate as a reasonable accommodation. The HACB 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 CFR 966.4(l)(5)(vii)(F)]

The PHA eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, ~~OR STALKING~~, OR HUMAN TRAFFICKING

This section addresses the protections against termination of tenancy that the Violence Against Women Act ~~of 2013~~ (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, ~~or stalking~~ or human trafficking. 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 Terminations [24 CFR 5.2005(e)]

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant on the basis or as a direct result 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 an affiliated individual of the tenant 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 CFR 5.2005(c)(1); FR Notice 8/6/13].

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

Limits on VAWA Protections [24 CFR 5.2005(d) and(e) ; FR Notice 8/6/13]

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking 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 or human trafficking providing that the PHA does not subject the victim to a more demanding standard than 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 CFR 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 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. 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 CFR 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 CFR 5.2005(d)(3)].

HACB Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the HACB 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 or human trafficking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

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

If the tenant wishes to contest the HACB's determination that he or she is 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.

Documentation of Abuse [24 CFR 5.2007]

HACB Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking claims protection under VAWA, the HACB 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 HACB 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 HACB will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or to 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 occupancy 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 or human trafficking [see 24 CFR 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 other 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]. However, perpetrators should be given no more than 30 days' notice of termination in most cases [Notice PIH 2017-08].

HACB Policy

The HACB will bifurcate a family's lease and terminate the tenancy of a family member if the HACB 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 HACB will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the HACB by the victim in accordance with this section and section 16-VII.D. The HACB will also consider the factors in section 13.III.E. Upon such consideration, the HACB may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the HACB does bifurcate 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 HACB shall provide any remaining tenant a chance to establish eligibility for the unit. If a remaining tenant cannot do so, the HACB shall provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered ~~by under~~ VAWA ~~2013~~.

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 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. HACB Policy determines when the PHA will conduct such checks.

HACB Policy

The HACB will conduct criminal records checks at annual reexamination and when it has come to the attention of the HACB, 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 PHA may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the PHA uses the authority of 24 CFR 5.903 and 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 and the tenant 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.

HACB Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the HACB will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant 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.

The family will be given 14 calendar days from the date of the HACB notice, to dispute the accuracy and relevance of the information. If the family does not contact the HACB to dispute the information within that 14 calendar day period, the HACB 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 CFR 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 date the termination will take place, 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 CFR 996.4(m)].

HACB Policy

If the PHA offers remote hearings, the notice will also state that the resident may request a remote hearing.

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that the PHA will provide technical assistance, if needed, before the hearing.

[Further, during the period of time for which HUD determines that a national emergency requires additional time for families to secure funding, all termination notifications for nonpayment of rent must include, at a minimum, the language provided in the Appendix of Notice PIH 2021-29.](#)

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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 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.

HACB Policy

The HACB will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. (For terminations related to domestic violence, see also section 16-VII.C.) If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a copy of the forms HUD 5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking 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 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i) ; 24 CFR 966.8; Notice PIH 2021-29]

The PHA must give written notice of lease termination of:

- During the period of time for which HUD determines that a national emergency requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 days from the date the tenant receives the notice in the case of failure to pay rent
- When such emergency is not present, 14 calendar days in the case of failure to pay rent~~14/3 notice to vacate in the case of failure to pay rent~~
- 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
- 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

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HACB Policy

The HACB will give written notice of ~~14-30~~ calendar days from the date the tenant receives the notice for nonpayment of rent (during nationwide emergency orders) or 14 calendar days from the date the tenant receives the notice for nonpayment of rent (upon expiration of nationwide emergency orders)~~for nonpayment of rent~~. For all other lease terminations, the HACB will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given. ~~If the family has resided in the unit more than one year, the HACB will provide a 60 day written notice.~~

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.

HACB Policy

Any Notice to Vacate or Notice to Quit that is required by state or local law will *insert* either “be combined with” or “run concurrently”] with the Notice of Lease Termination under this section.

Notice of Non-renewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident 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.

HACB 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 CFR 5.514 (c) and (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. Please see Chapter 14 for the PHA’s informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means 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.

All eviction notices will be accompanied by a copy of the form HUD 5382 and a notice of VAWA rights to accompany the eviction notice. Any family household member tenant who claims that the cause for eviction (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, sexual assault, or stalking of which the tenant

While the PHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the PHA could make the informal hearing process available to applicants who wish to dispute other PHA actions that adversely affect them.

HACB Policy

The HACB will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 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.

HACB Policy

As applicable, the HACB notice of denial will include information about required or requested remote informal hearings.

When denying eligibility for admission, the PHA must provide family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (HUD Form 5382) in accordance with the Violence Against Women ~~Reauthorization Act~~ ~~Action 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.

Scheduling an Informal Hearing

HACB Policy

A request for an informal hearing must be made in writing and delivered to the HACB either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the HACB notification of denial of admission.

The HACB will schedule and send written notice of the informal hearing within 10 business days of the family's request.

If the HACB informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

Regarding the processes involved in a remote informal hearing;

That the HACB will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform the HACB and the HACB will assist the family in either resolving the issues or allow the family to participate in an in-person informal hearing, as appropriate.

Conducting an Informal Hearing [PH Occ GB, p. 58]

HACB Policy

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the HACB.

The person conducting the informal hearing will make a recommendation to the HACB, but the HACB is responsible for making the final decision as to whether admission should be granted or denied.

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or ~~of~~ a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the HACB chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

HACB Policy

The HACB has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the HACB will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The HACB will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the HACB may not hold against the individual ~~his or her~~their inability to participate in the remote informal review, and the HACB should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

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The HACB will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The HACB will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Hearing Decision [PH Occ GB, p. 58]

HACB Policy

The HACB will notify the applicant of the final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the HACB will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice

The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in HACB Policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence. The HACB will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the HACB will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, the HACB will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The HACB will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 14 calendar days of the informal hearing, to the applicant and ~~his or her~~their representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the PHA must consider such accommodations. The PHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

The HACB will notify the family in writing of the results of the USCIS secondary verification within ~~14 calendar~~10 business days of receiving the results.

The family must provide the HACB with a copy of the written request for appeal and proof of mailing within ~~14 calendar~~10 business 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.

HACB Policy

The HACB will send written notice to the family of its right to request an informal hearing within ~~14 calendar~~10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 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 days of receipt of the PHA notice of denial, or within 30 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.

HACB Policy

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of HACB 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 request an interpreter. The PHA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

The PHA shall document each informal hearing by means of audio recording device. Such documentation will become part of the tenant file and record.

HACB Policy

The HACB will not provide a transcript of an audio taped informal hearing.

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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 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 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 CFR 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

For PHAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

HACB Policy

The resident must submit a written request (including emailed requests) for a grievance hearing to the HACB within five business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the PHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the HACB. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate HACB official.

HACB Policy

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the HACB.

If the HACB hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

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Regarding the processes involved in a remote grievance hearing;

That the HACB will provide technical assistance prior to and during the hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the HACB and the HACB will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The PHA-HACB may wish to permit the tenant to request to reschedule a hearing for good cause.

HACB Policy

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 orally or in writing prior to the hearing date. At its discretion, the HACB may request documentation of the "good cause" prior to rescheduling the hearing.

HACB Policy

The HACB has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the HACB will conduct a hearing remotely upon request as a reasonable accommodation for a person with a disability, if a tenant does not have child care or transportation that would enable them to attend the hearing, or if the tenant believes an in-person hearing would create an undue health risk. The HACB will consider other reasonable requests for a remote hearing on a case-by-case basis.

Discovery of Documents Before the Remote Hearing

HACB Policy

If the hearing will be conducted remotely, the HACB will compile a hearing packet, consisting of all documents the HACB intends to produce at the hearing. The HACB will mail copies of the hearing packet to the tenant, the tenant's representatives, if any, and the hearing officer at least three days before the scheduled remote hearing. The original hearing packet will be in the possession of the HACB representative and retained by the HACB.

If the hearing is to be conducted remotely, the HACB will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The HACB will scan and email copies of these documents to the hearing officer and the HACB representative the same day they are received.

Documents will be shared electronically whenever possible.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person grievance hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote grievance hearings.

If no method of conducting a remote grievance hearing is available that appropriately accommodates an individual's disability, the HACB may not hold against the individual ~~his or her~~ their inability to participate in the remote grievance review, and the HACB should consider whether postponing the remote grievance hearing to a later date is appropriate or whether there is a suitable alternative.

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14-III.H. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance 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.

HACB Policy

The tenant will be allowed to copy any documents related to the hearing at no cost to the family. There will be no charge for documents emailed by the HACB. The family must request discovery of HACB documents no later than 12:00 p.m. on the business day prior to the hearing.

- 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.

HACB Policy

Hearings may be attended by the following applicable persons:

~~The HACB~~The HACB representative(s) and any witnesses for the HACB

The tenant and any witnesses for the tenant

The tenant's counsel or other representative

Any other person approved by the HACB as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear [24 CFR 966.56(d)]

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than five business days or may make a determination that the party has waived ~~his/her~~their right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer: Provided, That a determination that the complainant has waived ~~his/her~~their 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.

evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If the HACB fails to comply with the discovery requirements (providing the tenant with the opportunity to examine HACB documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the HACB to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

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 CFR 966.56(e)].

HACB Policy

The HACB shall document each informal hearing by means of audio recording device. Such documentation will become part of the tenant file and record.

The HACB will not provide a transcript of the formal hearing.

Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

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 [24 CFR 966.56(g)]

The PHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

14-III.I. DECISION OF THE HEARING OFFICER [24 CFR 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 complainant and the PHA. The PHA must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions must also be maintained by the PHA and made available for inspection by a prospective complainant, his/her/their representative, or the hearing officer [24 CFR 966.57(a)].

HACB Policy

In rendering a decision, the hearing officer will consider the following matters:

HACB Notice to the Family: The hearing officer will determine if the reasons for the PHA'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 HACB Policy.

HACB Evidence to Support the HACB 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 HACB'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 HACB policies. If the grounds for termination are not specified in the regulations or in compliance with HACB policies, then the decision of the HACB will be overturned.

The hearing officer will issue a written decision to the family and the HACB no later than 14 calendar days after the hearing. The report will contain the following information:

Hearing information:

- Name of the complainant
- Date, time and place of the hearing
- Name of the hearing officer
- Name of the HACB 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 settlement was held, who held it, and a summary of the results of the informal settlement. 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 his/hers/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 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.

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 HACB's decision.

Order: The hearing report will include a statement of whether the HACB's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HACB to change the decision in accordance with the hearing officer's

EXHIBIT 14-1: SAMPLE GRIEVANCE PROCEDURE

The sample procedure provided below is a sample only and is designed to match up with the default policies in the model ACOP. If your PHA has made further policy decisions after NMA has provided you with this chapter, you would need Definitions applicable to the grievance procedure [24 CFR 966.53].

Note: The sample procedure provided below is a sample only and is designed to match up with the default policies in the model ACOP. If your PHA has made policy decisions that do not reflect the default policies in the ACOP, you would need to ensure that the procedure matches those policy decisions.

I. Introduction

Public housing tenants have the right to request a grievance hearing for any PHA action or failure to act in accordance with the tenant's lease.

Grievance procedures do not apply in the following circumstances:

- A. Disputes between tenants not involving the PHA or class grievances [24 CFR 966.51(b)].
- B. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners [24 CFR 966.51(b)].
- C. When the PHA is in a HUD-declared due process state, HUD allows the PHA to exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:
 - i. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
 - ii. Any violent or drug-related criminal activity on or off such premises; or
 - iii. Any criminal activity that resulted in felony conviction of a household member [24 CFR 966.51(a)(2)].

II. Definitions applicable to the grievance procedure [24 CFR 966.53]

A. Grievance: Any dispute a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations that adversely affects the individual tenant's rights, duties, welfare, or status.

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B. Complainant: Any tenant (as defined below) whose grievance is presented to the PHA or at the project management office in accordance with the requirements presented in this procedure.

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C. 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:

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- i. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
- ii. Right of the tenant to be represented by counsel
- iii. 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 that the tenant may have
- iv. A decision on the merits of the case

D. Hearing officer: 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. Such individuals do not need legal training.

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E. 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, the person who resides in the unit and is the remaining head of the household of the tenant family residing in the dwelling unit.

Resident organization: An organization of residents, which also may include a resident management corporation. ~~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, who resides in the unit and who is the remaining head of the household of the tenant family residing in the dwelling unit.~~

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III. This grievance procedure [24 CFR 966.51]

This grievance procedure is included by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].

Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, explaining the proposed changes and providing an opportunity to present written comments. Comments will be considered by the PHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

Resident organization: An organization of residents, which also may include a resident management corporation.

Applicability of this grievance procedure [24 CFR 966.51]

In accordance with the applicable federal regulations (24 CFR 966.50), this grievance procedure is applicable to all individual grievances (as defined in Section I above) between the tenant and the PHA with the following exception of disputes between tenants not involving the PHA or class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners [24 CFR 966.51(b)].

This grievance procedure is incorporated by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].

Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments will be considered by the PHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

IV. Informal settlement of a grievance [24 CFR 966.54]

Any grievance request must be personally presented, either orally or in writing (including email), to the PHA's central office or the management office of the development in which the tenant resides within 10 days after the violation.

As soon as the grievance request is received, it will be reviewed by the PHA to ensure it meets the requirements for a grievance hearing. If the tenant is not entitled to a grievance, the PHA will notify the tenant that they may instead seek judicial review and the procedures for requesting such a review [24 CFR 966.4(1)(3)(i)(C)(v)(B)].

Otherwise, within 10 business days, the tenant will be contacted to arrange a mutually convenient time to meet so the grievance may be discussed and settled without a hearing. At the informal settlement, the tenant will present their grievance.

Within five business days following the informal settlement, the PHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion. The summary will specify the names of the participants; the date of the meeting; the nature of the proposed resolution of the complaint, with specific reason(s); and will specify the procedures by which a formal hearing under this procedure may be obtained if the tenant is not satisfied [24 CFR 966.54]. A copy of this summary will also be placed in the tenant's file.

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Any grievance must be personally presented, either orally or in writing (including email), to the PHA's central office or the management office of the development in which the complainant resides **within 10 days after the grievable event.**

Grievances related to complaints about operations matters that are received by the PHA's central office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Civil Rights Administrator or Director of Operations.

As soon as the grievance is received, it will be reviewed by the management office of the development or the Civil Rights Administrator (if applicable) to be certain that neither of the exclusions in paragraphs II.A or II.B above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to the PHA's grievance procedure with the reason specified.

If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time **within 10 business days** to meet so the grievance may be discussed informally and settled without a hearing. At the informal settlement, the complainant will present the grievance and the person in charge of the management office or the Civil Rights Administrator will attempt to settle the grievance to the satisfaction of both parties.

Within five business days following the informal discussion, the PHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion that must specify the names of the participants, the 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 formal hearing under this procedure may be obtained if the complainant is not satisfied. A copy of this summary will also be placed in the tenant's file.

V. Requesting a formal grievance hearing

If the tenant is not satisfied with the outcome of the informal settlement, the tenant must submit a written request for a hearing to the management office of the development where the tenant lives no later than five business days after receiving the summary of the informal settlement. **Formal grievance hearing**

If the complainant is not satisfied with the settlement arrived at in the informal settlement, the complainant must submit a written request for a hearing to the management office of the development where the tenant resides **no later than five business days after the summary of the informal hearing is received.**

The written request must specify:

The reasons for the grievance; and

The action of relief sought from the PHA

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Within 10 days of receiving the written request for a hearing, the hearing officer will schedule and sent written notice of hearing to both the complainant and the PHA.

The written request must specify the reasons for the request and the action or relief sought from the PHA.

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VI. Selecting the hearing officer

A grievance hearing will be conducted by an impartial person appointed by the PHA as described below:

A. The hearing officer will be appointed directly by the executive director.

B. The hearing officer will be someone who did not make or approve the decision under review and who is not a subordinate of such persons [24 CFR 066.54(e)].

The PHA's method for selecting a hearing officer will be included in the lease [24 CFR 966.54(e)]. ~~A grievance hearing will be conducted by a single impartial person appointed by the PHA as described below:~~

~~— The hearing officer will be appointed directly by the executive director.~~

~~— The hearing officer will be a staff member who did not make or approve the decision under review and who is not a subordinate of such persons. If the designated staff member (such as the program manager) was involved in the decision or is a subordinate of such person, an alternate hearing officer will be selected.~~

~~— The PHA may select designated staff members who were not involved in the decision under review in certain circumstances, such as those involving discrimination claims or denials of requests for reasonable accommodations.~~

C. The PHA's method for selecting a hearing officer will be inserted into the lease.

VII. Scheduling hearings [24 CFR 966.56(a)]

When a tenant submits a timely request for a grievance hearing, the PHA will immediately appoint an impartial hearing officer.

Once the hearing has been scheduled, the tenant will receive written notice of the hearing, sent by mail or email, return receipt requested.

Within 10 days of receiving the written request, the hearing will be scheduled. The tenant, PHA, and hearing officer will be notified in writing of the date, time and location of the hearing. If the hearing will be held remotely, the PHA will also include information on the remote hearing process.

~~— The tenant may request to reschedule a hearing once. Should the tenant need to reschedule a second time, they may only do so for good cause, or if 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 orally or in writing at least one day prior to the hearing date. ~~When a complainant submits a timely request for a grievance hearing, the PHA will immediately appoint an impartial hearing officer to schedule the hearing within the following 10 business days.~~~~

~~Once the hearing officer has scheduled the hearing, the hearing officer will send written notice of the hearing to both the complainant and the PHA. Notice to the complainant will be in writing, either personally delivered to the complainant, or sent by mail or email, return receipt requested.~~

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The written notice will specify the time, place, and procedures governing the hearing. If the hearing will be held remotely, the PHA will also include information on the remote hearing process.

The tenant may request to reschedule a hearing on a one-time basis. Should the complainant need to reschedule a second time, they may do so for good cause, or if 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 orally or in writing prior to the hearing date.

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VIII. Procedures governing the hearing [24 CFR 966.56]

The hearing will be held before a hearing officer as described above in Section VI. The tenant will be afforded a fair hearing, which will include:

A. The opportunity to examine any PHA documents before the hearing, including records and regulations, that are directly relevant to the hearing.

The tenant must request to view and copy PHA documents relevant to the hearing by noon of the day before the hearing. The tenant is allowed to copy any such document at no cost to the tenant.

If the PHA does not make the document available for examination upon request by the tenant, the PHA may not rely on such document at the grievance hearing.

B. The right to be represented by counsel or any other person chosen as the tenant's representative, at the tenant's expense, and to have such person make statements on the tenant's behalf.

C. The right to a private hearing unless the tenant requests a public hearing.

D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.

E. A decision based solely and exclusively upon the facts presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence that is relevant to the facts and issues raised, and to question any witnesses.

The hearing decision will be based on the preponderance of the evidence, 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 tenant or the PHA may arrange in advance for a transcript or recording of the hearing at the expense of the party making the arrangement.

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 that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].

The PHA must comply with HUD's requirements regarding limited English proficiency (LEP). The tenant has the right to request competent oral interpretation, free of charge. LEP requirements can be found at: https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-faq

~~The hearing will be held before a hearing officer as described above in Section V. The complainant will be afforded a fair hearing, which will include:~~

- ~~— The opportunity to examine before the hearing any PHA documents, including records and regulations, that are directly relevant to the hearing.~~
- ~~— The tenant is allowed to copy any such document at no cost to the tenant. 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.~~
- ~~— The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.~~
- ~~— The right to a private hearing unless the complainant requests a public hearing.~~
- ~~— The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.~~
- ~~— A decision based solely and exclusively upon the fact presented at the hearing [24 CFR 966.56(b)].~~

~~The hearing is conducted informally by the hearing officer. 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.~~

~~The complainant or the PHA may arrange in advance for a transcript of the hearing at the expense of the party making the arrangement. Any interested party may purchase a copy of the transcript [24 CFR 966.56(e)].~~

~~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 that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].~~

~~The PHA must comply with HUD's requirements regarding limited English proficiency as specified in "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons," issued January 22, 2007, and available at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep_faq.~~

IX. Remote Hearings

The PHA has the authority to require that hearings be conducted remotely in certain situations.

X. Failure to appear at the hearing

If the tenant does not arrive within 15 minutes of the scheduled time, it will be considered a failure to appear, which means they have given up their right to a hearing.

- Both the tenant and the PHA must be notified of the determination by the hearing officer. A determination that the tenant has waived their right to a hearing will not constitute a waiver of any right the tenant may have to contest the PHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)]. ~~If the complainant or PHA fails to appear at the hearing, the hearing officer may make a determination to postpone the hearing or make a determination that the complainant has waived their right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer. A determination that the complainant has waived their 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 setting [24 CFR 966.56(e)].~~

XI. Decision of the hearing officer [24 CFR 966.57]

The hearing officer will prepare a written decision together with the reasons for the decision within 10 business days after the hearing. A copy of the decision will be sent to the tenant and the PHA.

The PHA will retain a copy of the decision in the tenant's file.

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 a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented.

The decision of the hearing officer will be binding on the PHA unless the PHA's Board of Commissioners determines within a reasonable time and notifies the tenant of its determination that:

- A. The grievance does not concern PHA action or failure to act in accordance with or involving the tenant's lease or PHA regulations, which adversely affect the tenant's rights, duties, welfare, or status; or
- B. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the PHA.

When the PHA considers the decision of the hearing officer to be invalid for either of the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board will have 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the tenant within 10 business days of this decision.

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~~A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the tenant, in whole or in part, will not constitute a waiver of nor affect in any way the tenant's right to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57]. The hearing officer will prepare a written decision together with the reasons for the decision within 10 business days after the hearing. A copy of the decision will be sent to the complainant and the PHA.~~

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~~The PHA will retain a copy of the decision in the tenant's file.~~

~~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 a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented.~~

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~~The decision of the hearing officer will be binding on the PHA unless the PHA's Board of Commissioners determines within a reasonable time and 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~~

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~~The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the PHA.~~

~~When the PHA considers the decision of the hearing officer to be invalid due to either of the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.~~

~~A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part will not constitute a waiver of nor affect in any way the rights of the complainant to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].~~

EXHIBIT 14-1: SAMPLE GRIEVANCE PROCEDURE

Note: The sample procedure provided below is a sample only and is designed to match up with the default policies in the model ACOP. If your PHA has made policy decisions that do not reflect the default policies in the ACOP, you would need to ensure that the procedure matches those policy decisions.

I. Definitions applicable to the grievance procedure [24 CFR 966.53]

A. **Grievance:** Any dispute a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations that adversely affects the individual tenant's rights, duties, welfare, or status.

~~B. Complainant: Any tenant (as defined below) whose grievance is presented to the PHA or at the project management office in accordance with the requirements presented in this procedure.~~

~~C. 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:~~

~~i. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction~~

~~ii. Right of the tenant to be represented by counsel~~

~~iii. 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 that the tenant may have~~

~~iv. A decision on the merits of the case~~

~~D. Hearing officer: 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. Such individuals do not need legal training.~~

~~E. 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, who resides in the unit and who is the remaining head of the household of the tenant family residing in the dwelling unit.~~

~~F. Resident organization: An organization of residents, which also may include a resident management corporation.~~

~~H. — Applicability of this grievance procedure [24 CFR 966.51]~~

~~In accordance with the applicable federal regulations (24 CFR 966.50), this grievance procedure is applicable to all individual grievances (as defined in Section I above) between the tenant and the PHA with the following exception of disputes between tenants not involving the PHA or class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners [24 CFR 966.51(b)].~~

~~This grievance procedure is incorporated by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].~~

~~Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments will be considered by the PHA before any revisions are made to the grievance procedure [24 CFR 966.52(e)].~~

~~III. — Informal settlement of a grievance [24 CFR 966.54]~~

~~Any grievance must be personally presented, either orally or in writing, (including email) to the PHA's central office or the management office of the development in which the complainant resides **within 10 days after the grievable event.**~~

~~Grievances related to complaints about operations matters that are received by the PHA's central office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Civil Rights Administrator or Director of Operations.~~

~~As soon as the grievance is received, it will be reviewed by the management office of the development or the Civil Rights Administrator (if applicable) to be certain that neither of the exclusions in paragraphs H.A or H.B above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to the PHA's grievance procedure with the reason specified.~~

~~If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time **within 10 business days** to meet so the grievance may be discussed informally and settled without a hearing. At the informal settlement, the complainant will present the grievance and the person in charge of the management office or the Civil Rights Administrator will attempt to settle the grievance to the satisfaction of both parties.~~

~~**Within five business days** following the informal discussion, the PHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion that must specify the names of the participants, the 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 formal hearing under this procedure may be obtained if the complainant is not satisfied. A copy of this summary will also be placed in the tenant's file.~~

~~IV. Formal grievance hearing~~

~~If the complainant is not satisfied with the settlement arrived at in the informal settlement, the complainant must submit a written request for a hearing to the management office of the development where the tenant resides **no later than five business days after the summary of the informal hearing is received.**~~

~~The written request must specify:~~

- ~~• The reasons for the grievance; and~~
- ~~• The action of relief sought from the HACB~~

~~**Within 10 days of receiving the written request for a hearing,** the hearing officer will schedule and sent written notice of hearing to both the complainant and the HACB.~~

~~V. Selecting the hearing officer~~

~~A grievance hearing will be conducted by a single impartial person appointed by the HACB as described below:~~

~~A. The hearing officer will be appointed directly by the executive director.~~

~~B. The hearing officer will be a staff member who did not make or approve the decision under review and who is not a subordinate of such persons. If the designated staff member (such as the program manager) was involved in the decision or is a subordinate of such person, an alternate hearing officer will be selected.~~

~~C. The HACB may select designated staff members who were not involved in the decision under review in certain circumstances, such as those involving discrimination claims or denials of requests for reasonable accommodations.~~

~~D. The HACBs method for selecting a hearing officer will be inserted into the lease.~~

VI. ~~Scheduling hearings [24 CFR 966.56(a)]~~

~~When a complainant submits a timely request for a grievance hearing, the HACB will immediately appoint an impartial hearing officer to schedule the hearing within the following 10 business days.~~

~~Once the hearing officer has scheduled the hearing, the hearing officer will send written notice of the hearing to both the complainant and the HACB. Notice to the complainant will be in writing, either personally delivered to the complainant, or sent by mail or email, return receipt requested.~~

~~The written notice will specify the time, place, and procedures governing the hearing. If the hearing will be held remotely, the PHA will also include information on the remote hearing process.~~

~~The tenant may request to reschedule a hearing on a one-time basis. Should the complainant need to reschedule a second time, he or she may do so for good cause, or if 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 orally or in writing prior to the hearing date.~~

VII. ~~Procedures governing the hearing [24 CFR 966.56]~~

~~The hearing will be held before a hearing officer as described above in Section V. The complainant will be afforded a fair hearing, which will include:~~

~~A. The opportunity to examine before the hearing any HACB documents, including records and regulations, that are directly relevant to the hearing.~~

~~The tenant is allowed to copy any such document at no cost to the tenant. If the HACB does not make the document available for examination upon request by the complainant, the HACB may not rely on such document at the grievance hearing.~~

~~B. The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.~~

~~C. The right to a private hearing unless the complainant requests a public hearing.~~

~~D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the HACB or project management, and to confront and cross-examine all witnesses upon whose testimony or information the HACB or project management relies.~~

~~E. A decision based solely and exclusively upon the fact presented at the hearing [24 CFR 966.56(b)].~~

~~The hearing is conducted informally by the hearing officer. The HACB 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.~~

~~The complainant or the HACB may arrange in advance for a transcript of the hearing at the expense of the party making the arrangement. Any interested party may purchase a copy of the transcript [24 CFR 966.56(e)].~~

~~The HACB 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 that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].~~

~~The HACB must comply with HUD's requirements regarding limited English proficiency as specified in "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons," issued January 22, 2007, and available at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promoting/lep_faqs.~~

VIII. — Remote Hearings

~~The HACB has the authority to require that hearings be conducted remotely in certain situations.~~

IX. — Failure to appear at the hearing

~~If the complainant or HACB fails to appear at the hearing, the hearing officer may make a determination to postpone the hearing or make a determination that the complainant has waived his or her right to a hearing.~~

~~Both the complainant and the HACB must be notified of the determination by the hearing officer. A determination that the complainant has waived his or 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 setting [24 CFR 966.56(e)].~~

X. — Decision of the hearing officer [24 CFR 966.57]

~~The hearing officer will prepare a written decision together with the reasons for the decision **within 10 business days** after the hearing. A copy of the decision will be sent to the complainant and the HACB.~~

~~The HACB will retain a copy of the decision in the tenant's file.~~

~~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 a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented.~~

~~The decision of the hearing officer will be binding on the HACB unless the HACB's Board of Commissioners determines within a reasonable time and notifies the complainant of its determination that:~~

~~A. The grievance does not concern HACB action or failure to act in accordance with or involving the complainant's lease or HACB regulations, which adversely affect the complainant's rights, duties, welfare, or status; or~~

~~B. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the HACB.~~

~~When the HACB considers the decision of the hearing officer to be invalid due to either of the reasons stated above, it will present the matter to the HACB Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.~~

~~A decision by the hearing officer or Board of Commissioners in favor of the HACB or which denies the relief requested by the complainant in whole or in part will not constitute a waiver of nor affect in any way the rights of the complainant to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].~~

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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 Elevated Blood Lead Level. This part describes the PHA's reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

Part VII: Violence against Women 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 human trafficking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart 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 CFR 965.502(a)].

PHAs must also establish surcharges for excess consumption of PHA-furnished utilities [24 CFR 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 CFR 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 CFR 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 CFR 965.505].

Utilities include gas, electricity, 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 CFR 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 siting 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 CFR 965.505(e)].

HACB Policy

The HACB has installed air-conditioning.

Utility Allowance Revisions [24 CFR 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 CFR 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~~must 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. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

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HACB Policy

Between annual reviews of utility allowances, the HACB 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 CFR 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.

HACB Policy

The HACB has PHA-furnished utilities for water, sewer and garbage. The HACB may establish and incorporate a utility allowance for water and sewer on Public Housing units that are individually metered.

16-I.D. NOTICE REQUIREMENTS [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 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 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ~~ACCOMMODATION~~ ACCOMMODATION AND INDIVIDUAL RELIEF [24 CFR 965.508]

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 [24 CFR 8 and 100, PH Occ GB, p. 172].

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 [24 CFR 8 and 100, PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

Further, the HACB may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the HACB deems appropriate. The family must request the higher allowance and provide the HACB with information about the additional allowance required.

PHAs should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company [Utility Allowance GB, p. 19, 24 CFR 965.508].

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.

Flat rents are also used 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 immigration status [24 CFR 5.504].

This part discusses how the PHA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b); Notice PIH ~~2017-23~~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 apply for an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA-HACB can demonstrate through the submission of a market analysis, that these FMRs do not reflect the market value of a particular property or unit.

~~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 the unit~~
- ~~• Amenities at property and in immediate neighborhood~~
- ~~• Housing services provided~~
- ~~• Maintenance provided by the PHA~~
- ~~• Utilities provided by the PHA and/or landlord for (comparable units in the market study)~~

~~The PHA must provide a corresponding key explaining the calculations used for determination the valuation for each factor. HUD published a Flat Rent Market Analysis tool on August 22, 2018, which includes a rent adjustment guide, a market rent comparison guide, and a rent adjustment worksheet to aide PHAs in requesting exception flat rents.~~

The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary."

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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 2017-222-33.

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 days after the effective date of new annual FMRs/SAFMRs/unadjusted rent, PHAs must implement new flat rents as necessary based on changes to the FMR/SAFMR/unadjusted rent or request an exception. If the FMR falls from year to year, the ~~PHA-HACB~~ may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

HACB Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the HACB will reduce flat rents to 80 percent of the current FMR/SAFMR.

Applying Flat Rents

HACB Policy

The HACB will apply updated flat rents at each family's next annual reexamination or flat rent update after implementation of the new flat rents.

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Posting of Flat Rents

HACB Policy

The HACB will publicly post the schedule of flat rents in a conspicuous manner in the applicable HACB or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The ~~PHA-HACB~~ must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the ~~PHA-HACB~~ 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].

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This part describes the PHA's policies for recovery of monies owed to the ~~PHA-HACB~~ by families.

HACB Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the HACB holds the family liable to return any underpayments to the HACB.

The HACB will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

~~When a family refuses to repay monies owed to the HACB, the HACB will utilize other available collection alternatives including, but not limited to, the following:~~

- ~~Collection agencies~~
- ~~Small claims court~~
- ~~Civil law suit~~
- ~~State income tax set-off program~~

16-III.B. REPAYMENT POLICY

Family Debts to the PHA

HACB Policy

Any amount owed to the HACB by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the HACB 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 HACB will terminate the family's tenancy ~~in accordance with the policies in Chapter 13. The HACB will also pursue other modes of collection.~~

HACB Policy

~~When a family refuses to repay monies owed to the HACB, in addition to termination of program assistance, the PHA 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 HACB in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.~~

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General Repayment Agreement Guidelines

Down Payment Requirement

HACB Policy

Before executing a repayment agreement with a family, the HACB will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the HACB that a down payment of 10 percent would impose an undue hardship, the HACB may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH ~~2017-12-2018-18~~ 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 ~~2017-12-2018-18~~ acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

HACB Policy

The HACB has established the following thresholds for repayment of debts, any deviation must be pre-approved by HACB management:

Amounts between \$3,000 and the federal or state threshold for criminal prosecution must be repaid within 36 months.

Amounts between \$2,000 and \$2,999 must be repaid within 30 months.

Amounts between \$1,000 and \$1,999 must be repaid within 24 months.

Amounts under \$1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the HACB that the threshold applicable to the family’s debt would impose an undue hardship, the HACB may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the HACB will consider all relevant information, including the following:

The amount owed by the family to the HACB

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control

The family’s current and potential income and expenses

The family’s current family share, as calculated under 24 CFR 982.515

The family’s history of meeting its financial responsibilities

If the family’s income increases or decreases during the term of a repayment agreement, either the HACB or the family may request that the monthly payment amount be adjusted accordingly.

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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].

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HACB Policy

Any repayment agreement between the HACB and a family must be signed and dated by the HACB and by the head of household and spouse/co-head (if applicable).

Due Dates

HACB Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Any amount or payment period that fall outside HACB policy for threshold amounts and due dates must be pre-approved by HACB management.

Late or Missed Payments

HACB 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 HACB, the HACB will send the family a delinquency notice giving the family ~~14 calendar~~ 10 business 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 HACB will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives two (2) delinquency notices for unexcused late payments in a 6-month period or three (3) delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the HACB will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

HACB Policy

The HACB generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements ~~Involving Improper Payments~~ Terms

All repayment agreements must be in writing, dated, signed by both the family and the HACB, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2017-12/2018-18 ~~Notice PHH 2017-12~~ 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~~ HACB 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~~ HACB the monthly payment amount specified in the agreement but must also pay to the ~~PHA~~ HACB the monthly tenant rent

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 CFR 908.101].

The HACB must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

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Notice PIH 2014-20 requires the PHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

- The PHA-HACB must keep confidential records of all emergency transfer requested under the PHA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specific in program regulations [24 CFR 5.2002(e)(12)].

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HACB Policy

The HACB will keep the last three years of the form HUD-50058 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination.

The HACB will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for three years from the end of participation date.

In addition, the HACB will keep the following records for at least three years:

An application from each ineligible family and notice that the applicant is not eligible

Lead-based paint records as required by 24 CFR 35, Subpart B

Documentation supporting the establishment of flat rents Documentation supporting the establishment of utility allowances and surcharges

Documentation supporting PHAS scores

The HACB will provide written notice of each known case of a child with an EBLL to the HUD field office and to HUD's Office of Lead Hazard Control (OLHCHH) 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 ~~Reauthorization Act of 2005~~ (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking 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 laws apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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 3-1.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-1B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS [24 CFR 5.2003; RF 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 member's 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 committed by a current or former spouse or intimate partner of the victim under the family or domestic violence

laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is: 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 current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
 - Restrict a person's access to money, assets, credit, or financial information
 - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
 - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks 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~~ their safety or the safety of others; or (B) suffer substantial emotional distress.
- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
 - Internet enabled devices
 - Online spaces and platforms

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- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies
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16-VII.C. NOTIFICATION

Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

HACB Policy

The HACB 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 participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the HACB's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

Notification to Applicants and Tenants [24 CFR 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 Form 5382) at each of these three junctures.

HACB Policy

The VAWA information provided to applicants and participants will consist of the notices in Exhibit 16-1 and 16-2.

The HACB will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include such information in all notices of denial of assistance (see section 3-III.F.).

The HACB will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. The PHA 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 ~~2006-42~~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.

HACB Policy

Whenever the HACB has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the HACB may decide not to send mail regarding VAWA protections to the victim's unit if the HACB believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the HACB will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

16-VII.D. DOCUMENTATION [24 CFR 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, stalking, human trafficking 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 fourteen (14) business days after receipt of the requests to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 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. The form may be filled out and submitted on behalf of the victim.

- (2) A federal, state, tribal, territorial, or local police report or court record or administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; 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 [~~VAWA final rule~~ [FR Notice 11/16/16](#)].

HACB Policy

Any request for documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking will be in writing, will specify a deadline of fourteen (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 HACB may, in its discretion, extend the deadline for ten (10) business days. In determining whether to extend the deadline, the HACB will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the HACB will acknowledge receipt of the documentation within ten (10) business days.

Conflicting Documentation [24 CFR 5.2007E)

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 may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. The PHA must honor any court orders issued to protect the victim or to address the distribution of property. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

HACB Policy

If presented with conflicting certification documents from members of the same household, the HACB will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. When

requesting third-party documents, the HACB will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the HACB does not receive third-party documentation within the required timeframe (and any extensions) the HACB will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the HACB will hold separate hearings for the applicants or tenants.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d); ~~42 U.S.C. § 14043e-11(e)(3)(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 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

HACB Policy

If the HACB accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking, the HACB will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c); ~~42 U.S.C. § 14043e-11(e)(2)(A)~~]

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 fourteen (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-VI.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4); ~~42 U.S.C. § 14043e-11(e)(4)~~]

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking or human trafficking, 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.

HACB Policy

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.

**EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE
VIOLENCE AGAINST WOMEN ACT, FORM 5380**

Housing Authority of the County of Butte¹

Notice of Occupancy Rights under the Violence Against Women Act^{1,2}

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.³ The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the Public Housing Program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.

Protections for Applicants

If you otherwise qualify for assistance under the Public Housing Program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the Public Housing Program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Also, if you or an affiliated individual of your is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the Public Housing Program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

¹ The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD's program-specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

² Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual or sexual orientation

³ 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.

Removing the Abuser or Perpetrator from the Household

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HACB can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HACB must be in writing, and HACB must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HACB may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HACB as documentation. It is your choice which of the following to submit if HACB asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HACB with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agency, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that ~~he or she~~ they believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that HACB agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HACB does not have to provide you with the protections contained in this notice.

If HACB receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms 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 abuser or perpetrator), HACB has the right to request that you provide third-party documentation within thirty (30) calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HACB does not have to provide you with the protections contained in this notice.

Confidentiality

HACB must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, HACB must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact Larry Guanzon, Deputy Executive Director, Housing Authority of the County of Butte, 2039 Forest Avenue, Chico CA 95928 or (530) 895-4474 ext. 226.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at (800) 799-7233 or, for persons with hearing impairments (800) 787-3224 (TTY). You may also contact:

Catalyst Domestic Violence Services 1-800-895-8476

Administrative Office & Drop-In Center 330 Wall Street, Suite 50 Chico, CA 95928 (530) 343-7711

Greater Oroville Family Resource & Drop-In Center 1720 Daryl Porter Way Oroville, CA 95966 (530) 532-6427

Legal Services of Northern California Office Location: 541 Normal Avenue Chico, CA 95928

Mailing Address: P.O. Box 3728 Chico, CA 95927 Voice: (530) 345-9491 Toll-free: (800) 345-9491 Fax: (530) 345-6913

For 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>.

For help regarding sexual assault, you may contact:

Catalyst Domestic Violence Services 1-800-895-8476

Administrative Office & Drop-In Center 330 Wall Street, Suite 50 Chico, CA 95928 (530) 343-7711

Greater Oroville Family Resource & Drop-In Center 1720 Daryl Porter Way Oroville, CA 95966 (530) 532-6427

Legal Services of Northern California Office Location: 541 Normal Avenue Chico, CA 95928

Mailing Address: P.O. Box 3728 Chico, CA 95927 Voice: (530) 345-9491 Toll-free: (800) 345-9491 Fax: (530) 345-6913

Victims of stalking seeking help may contact:

Catalyst Domestic Violence Services 1-800-895-8476

Administrative Office & Drop-In Center 330 Wall Street, Suite 50 Chico, CA 95928 (530) 343-7711

Greater Oroville Family Resource & Drop-In Center 1720 Daryl Porter Way Oroville, CA 95966 (530) 532-6427

HCV	Housing choice voucher
HERA	Housing and Economic Recovery Act of 2008
HOPE VI	Revitalization of Severely Distressed Public Housing Program
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IMS	Inventory Management System
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
<u>IVT</u>	<u>Income Validation Tool</u>
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PHAS	Public Housing Assessment System
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center

RFP	Request for proposals
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
ROSS	Resident Opportunity and Supportive Services
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
UPCS	Uniform Physical Condition Standards
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013 Act
VCA	Voluntary Compliance Agreement

B. GLOSSARY OF PUBLIC HOUSING TERMS

Accessible. The facility or portion of the facility can be approached, entered and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (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.

Alternative non-public housing rent. A monthly rent equal to the greater of:

- The applicable fair market rent, as defined in 24 CFR part 888, subpart A, for the unit; or
- The amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets*.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Bifurcate. With respect to 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.

Ceiling Rent. The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age 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~~ their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. A citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance 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 the assistance.

Dating violence. 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

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities*.

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Domestic violence. ~~Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:~~

- ~~- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim~~
- ~~- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner~~
- ~~- A person with whom the victim shares a child in common~~
- ~~- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction~~

~~a current or former spouse 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, 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.~~

~~Felony or misdemeanor crimes of violence committed by a current or former spouse 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, 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.~~

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Domicile. The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Economic abuse. Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

Economic Self-Sufficiency Program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

Effective date. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the re-determined rent becomes effective.

Elderly family. A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly Person. An individual who is at least 62 years of age.

Eligible Family (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer Identification Number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

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, as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may

establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (CFR 5.603)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family self-sufficiency program (FSS program). ~~The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103) the program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).~~

Federal agency. A department of the executive branch of the federal government.

Flat rent. ~~Rent that is based on the market rent charged for comparable units in the private unassisted rental market, set at no less than 80 percent of the current fair market rent (FMR), 80 percent of the small area fair market rent (SAFMR), or 80 percent of the unadjusted rent, with utility allowances applied as necessary. The unadjusted rent is the FMR estimated directly from source data that HUD uses to calculate FMRs in nonmetropolitan areas. Established by the PHA for each public housing unit; a rent based on the market rent charged for comparable units in the unassisted rental market, set a no less than 80 percent of the applicable Fair Market Rent (FMR), and adjusted by the amount of the utility allowance, if any.~~

Foster Child Care Payment. A payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (CFR 5.603)

Gender identity. Actual or perceived gender-related characteristics.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*).

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children and foster adults.

Housing agency (HA). See *public housing agency*.

HUD. The U.S. Department of Housing and Urban Development.

Human trafficking. A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

Imputed asset. An asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

Imputed asset income. The HUD passbook rate multiplied by the total cash value of assets. The calculation used when net family assets exceed \$5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income-based rent. A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

[Income Validation Tool \(IVT\) Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' \(HHS\) National Directory of New Hires \(NDNH\), and the Social Security Administration \(SSA\) data sharing agreements.](#)

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Individual with handicaps. See *person with disabilities*.

Jurisdiction. The area in which the PHA has authority under State and local law to administer the program.

Lease. A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Medical expenses. Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (a deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Minimum rent. An amount established by the PHA of zero to \$50.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant 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 for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Non-public housing over-income family. A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

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Over-income family. A family whose income exceeds the over-income limit.

Over-income limit. The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4.

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PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Persons with Disabilities. *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such impairment, or a person with a record of such impairment.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Public Assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

Public Housing Agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family. A family residing in public housing:

- Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;
- Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Technological abuse. An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

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Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the PHA.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to, denying assistance under, or evicting from a public housing unit to an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking or human trafficking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103(b)), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker ~~only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.~~