

PLEASANTON HOUSING AUTHORITY

ADMISSIONS AND CONTINUED OCCUPANCY POLICY FOR THE PUBLIC HOUSING PROGRAM



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The Public Housing Program History

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

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

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

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

Public Housing Program Basics

HUD writes and publishes regulations in order to implement public housing laws enacted by Congress. HUD contracts with a Public Housing Authority (PHA) to administer programs in accordance with HUD regulations and provides an operating subsidy to the PHA. The PHA must create written policies that are consistent with HUD regulations. Among these policies is the PHA's Admission and Continued Occupancy Policy (herein referred to as ACOP). The ACOP must be approved by the PHA's Board of Commissioners. The job of the PHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent.

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

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

Chapter 1

Overview of the Program and Plan

The Pleasanton Housing Authority (herein referred to as PHA) receives operating subsidy for the public housing program from the Department of Housing and Urban Development (herein referred to as HUD). The PHA enters into an Annual Contributions Contract with HUD to administer the public housing program. The PHA must ensure compliance with federal laws, regulations and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

A. Organization and Structure

The PHA is funded by the federal department and administered by Pleasanton Housing Authority for the jurisdiction of the City of Pleasanton, KS.

The officials of the PHA are known as the Board of Commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by staff and ensuring that the PHA is successful in its mission. The Board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability. The PHA Board is a five member board, one tenant commissioner and four commissioners who reside or work within 35 miles of the PHA .

Formal actions of the PHA are taken through written resolutions, adopted by the Board of Commissioners and entered into the official records of the PHA.

The principal staff member of the PHA is the Executive Director (ED), hired by the Board. The ED is directly responsible for carrying out the policies established by the Board and is delegated the responsibility for hiring, training and supervising the PHA staff in order to manage the day-to-day operations of the PHA. The ED is responsible for ensuring compliance with federal and state laws, directives and program mandates. In addition, the ED's duties include budgeting and financial planning for the agency.

B. Mission Statement

The Pleasanton Housing Authority mission is to provide decent and safe affordable housing for residents and to assist in opportunities for residents to achieve work and self sufficiency

C. Statement of Policies

The purpose of the Statement of Policies Governing Admission to and Continued Occupancy (herein referred to as ACOP) is to establish policies and procedures to occupy and continue the occupancy of public housing. The ACOP is a written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review. The ACOP also contains policies that support the objectives contained in the PHA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. Policies in this ACOP have been designed to ensure compliance with the consolidated ACC and

all HUD-approved applications for program funding. The PHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

HUD has made it clear that consistency in PHA conduct is important. Referring to and following the ACOP is essential to maintaining consistency in applying PHA policy.

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

- Mandatory policies: are those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel
- Optional, non-binding guidance: including guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

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

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

D. Updating and Revising the ACOP

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

The original policy and any changes that the PHA considers a substantial deviation or significant amendment or modification must be approved by the PHA’s Board of Commissioners, the pertinent sections included in the PHA Plan, and a copy provided to HUD as required.

The PHA considers a “substantial deviation” for the 5-year plan would be to fundamentally change the plan of the PHA, which would require Board of Commissioners approval, such as additions of non-emergency items of 50% of the grant amount to the Capital Fund Program.

However, the agency will move work items currently listed in the 5-year plan to different years under fungibility rules. An exception to this definition will be made for changes adopted to reflect regulatory requirements by HUD.

A “significant amendment for modification” for the Annual Plan would be to fundamentally change the plan of the PHA, which would require Board of Commissioners approval, such as any alteration to the CFP that affects and expenditure greater than 50% of the CFP Budget for that year, or plan related policy revision, the mission statement, strategic goals and objectives. An exception to this definition will be made for changes adopted to reflect regulatory requirements

by HUD.

E. Privacy Policy

It is PHA policy to comply fully with all Federal, State, and local laws and with rules and regulations governing confidentiality in housing. Each PHA employee and Commissioner is required to sign a “Confidentiality Agreement” (Exhibit 1-1) on date of hire and again annually.

Each PHA employee and Commissioner agrees not to disclose any applicant or tenant information, directly or indirectly, that is of a personal, private, and confidential nature, to any person or uses such information in any way, either during the term of their employment or commission term or at any other time thereafter.

By signing the “Confidentiality Agreement”, staff agrees that all files, records, documents and similar items relating to employment, whomever prepared by, are and shall remain exclusively PHA property and that said files shall be removed from the premises only with the express prior written consent of the ED or his/her designee. A violation of the “Confidentiality Agreement” may result in disciplinary action up to and including termination of employment. The unauthorized release of information may subject the PHA and staff to civil action under the Quality Housing and Work Responsibility Act of 1998.

The Privacy Act of 1974 requires that the PHA only maintains such information about individuals that is relevant and necessary to accomplish its purpose. The Act also requires that information collected is maintained with appropriate safeguards to protect the information. All information collected will be maintained in a secure office area where only authorized personnel has access.

The PHA will only share or discuss sensitive information with those who have a need-to-know purpose for their work. Even then the PHA will ensure that a release has been authorized by the applicant or tenant.

EXHIBIT 1-1: CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT

It is the policy of the Pleasanton Housing Authority (PHA) to safeguard private information provided to the PHA by persons who apply for and/or participate in assistance program administered by the PHA. Private information is any information obtained about a person which might identify him/her as an applicant for assistance or a program participant.

Private information to which the undersigned commissioner, officer, employee or consultant of the PHA (herein referred to generally as a PHA Associate) gains access shall not be used, published, disclosed or disseminated in any form to any person, agency (governmental or otherwise), corporation or other entity except (1) as required in fulfilling the legal responsibilities of HUD, or other contractual obligations in administering a program, or (2) as required by law, as determined by an opinion of the PHA's General Counsel, or (3) as requested in writing by the applicant or program participant specifying the information to be given, the form in which it is to be given and the party or parties to whom it is to be given.

The undersigned agrees to maintain the strict privacy of information and to follow the PHA's procedures established from time to time to insure the privacy of data concerning individuals. Access to private information is to be strictly limited to those PHA Associates who requires it to conduct their job activities.

If the undersigned is subpoenaed or otherwise believes that he/she may be called upon to make a disclosure of private information to any court or governmental agency, he or she shall immediately notify the PHA Executive Director. If so required by the PHA Executive Director, the undersigned shall cooperate in all lawful efforts to protect private information.

The failure of the undersigned to comply with the above confidentiality requirements is grounds for dismissal.

The restriction of this Agreement regarding use and disclosure of private information shall continue to apply after termination of employment or other relationship with the PHA.

The undersigned PHA Associate has read and understands the above statement and agrees to comply with it in every respect.

Dated this _____ day of _____, _____.

PHA Associate Signature

Chapter 2

Fair Housing and Equal Opportunity

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

A. Overview

The PHA will comply with all Federal, State, and local nondiscrimination laws and with rules and regulations governing Fair Housing and Equal Opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, religion, national origin or sex;
- Title VIII of Civil Rights Act of 1968, which extends protection against discrimination based on disability and familial status, and spells out forms of prohibited discrimination;
- Executive Order 11063; prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds
- Section 504 of Rehabilitation Act of 1973, which describes specific housing rights of persons with disabilities;
- Age Discrimination Act of 1975, which establishes certain rights of the elderly;
- Title II of the Americans with Disabilities Act, otherwise Section 504 and the Fair Housing Amendments govern (Title II deals with common areas and public space, not living units;
- Violence Against Women Act of 2005 and 2013 Reauthorization, as amended (VAWA);
- "Equal Access to Housing in HUD Programs regardless of Sexual Orientation or Gender Identity"; and
- Any applicable State laws or local ordinances.

When more than one civil rights law applies to a situation, the laws will be read and applied together.

B. Nondiscrimination

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

The PHA will not discriminate because of race, color, sex, religion, familial status, age, disability, national origin, marital status, gender identity, or sexual orientation.

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment

- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of tenantable 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.

To further commitment to compliance with Civil Rights laws, the PHA will attend training and keep current with new developments. Fair Housing posters are posted at tenant information areas and the equal opportunity logo is used on outreach materials.

C. Discrimination Complaints

If a tenant or applicant family believes that any family member has been discriminated against by the PHA, the family should advise the PHA either orally or in writing.

The PHA will make every reasonable attempt to determine whether the applicant or tenant family's assertions have merit and take any warranted corrective action.

Within 10 business days of receiving a complaint, the PHA will:

- Provide written notice of the complaint to those alleged and inform the complainant that notice was made
- Investigate allegations and provide complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Provide information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO) (Exhibit 2-1).
- Keep a record of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20].

D. Persons with Disabilities - 504 Accommodations

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 its program and services. This begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program.

The PHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a disability 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)].

The PHA will advise all applicants and tenants of the right to request a reasonable accommodation by providing a written “Notice of Right to Reasonable Accommodation” (Exhibit 2-2) during application intake, annual recertification process and as part of any adverse action proposed by the PHA.

The PHA staff will engage in an interactive discussion, as appropriate, in response to any perceived accommodation that may be appropriate.

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

E. Definition of Reasonable Accommodation

A “reasonable accommodation” is a change, exception, or adjustment to a discretionary 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.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an “undue financial and administrative burden” 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 the provider’s operation.

F. Types of Reasonable Accommodations

When it is reasonable, the PHA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Install grab bars or railing for better accessibility
- Installing visual fire alarms for hearing impaired persons
- Allowing an assistance animal
- Transfer a tenant who needs a fully accessible unit

G. Request for an Accommodation

If an applicant or tenant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires the PHA to treat that information as a request for a reasonable accommodation, even if no formal request is made.

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

If the need for an accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability (the nexus).

The family must submit in writing when a grab bar or outside railing is needed. If a ramp is needed, PHA will help the family get in contact with a local charity that will install a ramp at no charge to family.

H. Approval/Denial of Requested Accommodation

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

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA's operations.

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

Before making a determination whether to approve a request, the PHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the PHA may verify the need for the requested accommodation.

1. Processing Request for Reasonable Accommodation

Request Acknowledgement

When a request for an accommodation is presented the PHA will respond within 10 business days.

Denial Because No Relationship of Nexus to Disability

If the PHA denies a request for an accommodation because there is no relationship or nexus found between the disability and the requested accommodation, the notice will inform the family of the right to appeal that decision through an informal hearing (if applicable) or the grievance process (see Chapter 20).

Denial Because Request Unreasonable and Interactive Process Fails

If the PHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the PHA's operations), the PHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, it will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the decision through an informal hearing (if applicable) or the grievance process (see Chapter 20).

2. Rejecting the Accommodation

If the PHA approves a tenant's accommodation request and the tenant chooses not to exercise his or her accommodation, the PHA will close the accommodation request. This does not prevent the tenant from making another request at a later time if circumstances change and he or she believes that an accommodation is needed due to limitations from a disability (e.g., the disability worsens, or the tenant requires an additional or different reasonable accommodation).

I. Accessibility for Persons with Hearing or Vision Impairments

The PHA will take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the program and services.

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

J. Physical Accessibility

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

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

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

- This policy, the Admissions and Continued Occupancy Policy (ACOP), describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 Accessibility Notice (which must be posted in the public housing offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

K. Denial or Termination of Assistance

The PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the PHA's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, the PHA must consider whether a reasonable accommodation will allow the family to overcome the problem that led to the decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation [24 CFR 966.7].

In addition, the PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

L. Limited English Proficiency (LEP)

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These people will be referred to as Persons with Limited English Proficiency (LEP). As needed, the PHA will survey applicants and tenants to track the languages in which they are most proficient and to determine the languages into which materials should be translated. The PHA will do its best to acquire materials, interpreter or whatever means needed to communicate to LEP applicants or tenants.

EXHIBIT 2-1: HUD Discrimination Complaint Form



Report Housing Discrimination

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity

QUESTION 1

Why do you believe someone discriminated against you, someone you live with, or someone you sought to live with?

Choose at least one reason. You can choose more than one.

- ☐ Because of race
- ☐ Because of color
- ☐ Because of religion
- ☐ Because of national origin (including limited English proficiency)
- ☐ Because of disability
- ☐ Because of sex (this includes, but is not limited to, discrimination because of gender, actual or perceived gender identity or sexual orientation)
- ☐ Because of familial status (this includes children under 18 years old, pregnancy or seeking legal custody)
- ☐ Because, or as a direct result of, being a survivor of domestic violence, dating violence, sexual assault, or stalking, or because you believe another housing right under the Violence Against Women Act (VAWA) was violated (e.g., failure to provide an emergency transfer, imposing penalties for seeking emergency assistance). VAWA protections apply regardless of sex, sexual orientation, or gender identity
- ☐ Retaliation, intimidation, or interference related to exercising a fair housing right or a VAWA right (such as filing a complaint; testifying in a proceeding), or helping others to do so
- ☐ Other reason (explain below)

- ☐ **Other members of my household or other people at the property experienced discrimination. We'll collect their name(s) and contact information when we speak with you.**

QUESTION 2

Who discriminated against you?

Provide as much information as you have available. We won't contact them before speaking with you.

First name (or business name):

Last name:

Relationship to you: (e.g. landlord, lender, real estate agent)

Address:

Business name or job title:

Phone number 1:

Phone number 2:

Email address:

Location (for example, name of residential rental or sales property, public entity, business, or bank):

Street address:

Apt. or unit:

City:

State:

ZIP:

☐ **More than one person or business discriminated against me. We'll collect their name(s) and contact information when we speak with you.**

QUESTION 3

Where did the discrimination happen?

Provide the name and address of the building, apartment complex, or other location where the discrimination occurred. Provide as much information as you have available.

Location (for example, name of residential rental or sales property, public entity, business, or bank):

Street address:


Apt or unit:

City:

State:

ZIP:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity (FHEO)
HUD-903.1

 **An official form of the United States Government**
OMB Control #: 2529-0011
Expiration Date: 9/30/25

QUESTION 4

When did the discrimination happen?

If it happened multiple times or is still happening, provide the most recent date you experienced discrimination.

Date(s) of discrimination:

☐ The alleged discrimination is continuing or ongoing or the alleged discrimination is still happening.

QUESTION 5

What happened?

Summarize the events and why you believe you experienced housing discrimination because of race, color, national origin, religion, sex, disability, or familial status and/or a violation of your VAWA rights. For example: Were you refused an opportunity to rent or buy housing? Denied a loan? Told that housing was not available when in fact it was? Treated differently because of the presence of minor children? Denied a disability related reasonable accommodation? Evicted because of your sexual orientation? Terminated from participating in a housing-assistance program? Denied a right because of or on the basis of being a survivor of domestic violence? Treated differently or denied services by a state, local government, public housing agency, or other organization that may receive money from HUD? Describe the reasons you believe discrimination occurred, any evidence you might have and provide the names of witnesses (if any).

What happened?:

NOTE: Continued on next page

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity (FHEO)
HUD-903.1



An official form of the United States Government

OMB Control #: 2529-0011

Expiration Date: 9/30/25

What happened? (continued):

NOTE: If you need more space, attach additional pages

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity (FHEO)
HUD-903.1

 **An official form of the United States Government**

OMB Control #: 2529-0011
Expiration Date: 9/30/25

FORM INSTRUCTIONS

Where to mail, email, or fax your claim form

Submit online at www.hud.gov/fairhousing/fileacomplaint or send your claim form to the FHEO regional office that serves the state or territory where the discrimination happened. We'll review your information and contact you as soon as possible.

FHEO Region 1 (New England)

CT, ME, MA, NH, RI, VT

Mail:

FHEO Region 1
Thomas P. O'Neill, Jr. Federal Building
10 Causeway St, Room 321
Boston, MA 02222
Email: ComplaintsOffice01@hud.gov
Fax: Call (617) 994-8300 for assistance

FHEO Region 2 (NJ, NY, Caribbean)

NJ, NY, Puerto Rico, Virgin Islands

Mail:

FHEO Region 2
U.S. Department of Housing and Urban Development
26 Federal Plaza, Room 3532 New York, NY 10278
Email: ComplaintsOffice02@hud.gov
Fax: Call (212) 542-7519 for assistance

FHEO Region 3 (Mid-Atlantic)

DE, DC, MD, PA, VA, WV

Mail:

FHEO Region 3 The Wanamaker Building
100 Penn Square East, 12th Floor Philadelphia, PA 19107
Email: ComplaintsOffice03@hud.gov
Fax: Call (215) 861-7646 for assistance

FHEO Region 4 (Southeast)

AL, FL, GA, KY, MS, NC, SC, TN

Mail:

FHEO Region 4 Five Points Plaza 40 Marietta NW St.,
16th Floor Atlanta, GA 30303
Email: ComplaintsOffice04@hud.gov
Fax: Call (404) 331-5140 for assistance

FHEO Region 5 (Upper Midwest)

IL, IN, MI, MN, OH, WI

Mail:

FHEO Region 5 Ralph H. Metcalfe Federal Building
77 West Jackson Boulevard, Rm. 2202 Chicago, IL 60604
Email: ComplaintsOffice05@hud.gov
Fax: Call (312) 913-8453 for assistance

FHEO Region 6 (South/Southwest)

AR, LA, NM, OK, TX

Mail:

FHEO Region 6
307 W. 7th Street Suite 1000
Fort Worth, TX 76102
Email: ComplaintsOffice06@hud.gov
Fax: Call (817) 978-5900 for assistance

FHEO Region 7 (Lower Midwest)

IA, KS, MO, NE

Mail:

FHEO Region 7
Gateway Tower II 400 State Avenue,
Room 200 Kansas City, KS 66101
Email: ComplaintsOffice07@hud.gov
Fax: Call (913) 551-6958 for assistance

FHEO Region 8 (Mountain West)

CO, MT, ND, SD, UT, WY

Mail:

FHEO Region 8
U.S. Department of Housing and Urban Development
1670 Broadway Denver, CO 80202
Email: ComplaintsOffice08@hud.gov
Fax: Call (303) 672-5437 for assistance

FHEO Region 9 (West/Territory Islands)

AZ, American Samoa, CA, Guam, HI, NV

Mail:

FHEO Region 9 One Sansome St. Suite
1200 San Francisco, CA 94104
Email: ComplaintsOffice09@hud.gov
Fax: Call (415) 489-6524 for assistance

FHEO Region 10 (Northwest)

AK, ID, OR, WA

Mail:

FHEO Region 10 Seattle Federal Office Building
900 First Avenue, Room 205 Seattle, WA 98104
Email: ComplaintsOffice10@hud.gov
Fax: Call (206) 220-5170 for assistance

Paperwork Reduction Act Burden Statement

The public reporting burden for this collection of information is estimated to average 0.75 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to the Reports Management Officer, Paperwork Reduction Project, the Office of Information Technology, US. Department of Housing and Urban Development, Washington, DC 20410-3600. When providing comments, please refer to OMB Approval No. 2529-0011. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

This collection of information is required for collection of pertinent information from persons or entities who wish to file housing discrimination complaints under the Fair Housing Act of 1968, as amended. 42 U.S.C. § 3601 et seq. The information will be used to provide HUD with sufficient information to contact aggrieved persons and notify respondents; make initial assessments regarding HUD's authority to investigate allegations of unlawful housing discrimination; and conduct administrative complaint investigations. No assurances of confidentiality are provided for this information collection.



EXHIBIT 2-2: NOTICE OF RIGHT TO REASONABLE ACCOMMODATION

Pleasanton Housing Authority

Reasonable Accommodation Process

If you have a disability and you require some sort of modification to fully access and utilize the housing program or related services, you may request a reasonable accommodation. Requests can include:

- An exception to a rule, policy or procedure
- A change or repair in your unit or some other part of the housing site
- A special type of unit
- A change in the way we communicate with you or give you information

To qualify for a reasonable accommodation, you must:

1. Be a person with a disability under the following ADA definition:
 - A physical or mental impairment that substantially limits one or more of the major life activities
 - A record of such impairment; or
 - Regarded as having such an impairment
2. Submit a Request for Reasonable Accommodation
3. Have a qualified physician or other professional verify that you require the accommodation due to your disability and the change is required for you to have equal access to the housing program.

If you qualify for the accommodation and it would not create an undue financial and administrative burden or fundamentally alter the nature of the housing program, PHA will make every effort to grant the request or present an alternate accommodation that will still meet the needs of the request.

PHA will provide a written decision to you in a reasonable time frame. If no additional information is needed, a response should be sent to you within 14 business days.

The written decision will include details on the request if approved, or an explanation for denial to the request, as well as details on requesting an informal hearing to have the decision reviewed.

You may pick up a Reasonable Accommodation Request Form at our office, or request that one be mailed to you. If you require accommodation with respect to submitting the Reasonable Accommodation Form, you should contact our office at (620) 223-4570.

For Lease Violation or Eviction:

If your housing assistance is in jeopardy due to eviction proceedings or a lease violation resulting from your disability, you can request a reasonable accommodation that would enable you to the terms of the lease. Contact our office at (620) 223-4570.

Falsification of Reasonable Accommodation Requests

Falsifying information constitutes program fraud under 24 CFR 982.551(k) and may result in denial or termination of benefits.

Chapter 3

Eligibility

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.

A. Eligibility Criteria for Admission

To be eligible for the public housing program:

- The applicant family must:
 - Must be 19 years of age or older. Anyone under 19 must be married (married couple must have one party 19 year of age) or emancipated
 - Qualify as a family as defined by HUD and the PHA.
 - Have an income at or below HUD-specified income limits.
 - Have assets that are below HUD-specified asset limit of \$100,000.
 - Not have any real property suitable for occupancy as a residence.
 - Qualify on the basis of citizenship or eligible immigrant status of family members.
 - Provide Social Security number information for household members as required.
 - Meets the Suitability Criteria as set forth in this chapter
 - Has no outstanding debt to any housing authority
 - Sign consent authorization documents for each adult in the household.
- 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.

B. Family and Household

[24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, and Notice PIH 2014-20]

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.

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

1. Family

To be eligible for admission, an applicant must qualify as a family. Family as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation (homosexuality, heterosexuality, or bisexuality), gender identity (actual or perceived characteristics), or marital status a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine

if any other group of persons qualifies as a family.

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

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

2. Household

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

i. Family Breakup

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see Chapter 23 of this plan.)
- If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

Family Breakup while on the Waiting List

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

Family Breakup while a Tenant

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families may continue to be assisted. The PHA may consider moving the other family member to a different unit if one is available. If one is not available that family member can reapply to be placed on the waiting list if found eligible.

Determining Which Family Retains Waiting-List Placement or Occupancy

In the absence of a judicial decision or an agreement among the original family members, the PHA will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, the PHA will consider 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, 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 VAWA; (4) any possible risks to family members as a

result of criminal activity, and (5) the recommendations of social service professionals.

ii. 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 tenant family who remains in the unit when other members of the family have left the unit. 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 Section L., paragraph 7, on “Caretakers for a Child” in this Chapter.

C. 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 (A minor who is emancipated under state law may be designated as head of household).

D. Spouse, Co-Head and Other Adult

A family may have a spouse or co-head, but not both.

Spouse means the marriage partner of the head of household. A marriage partner includes the partner in a "common law" marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A co-head is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. To be a co-head, the individual must sign the lease. A family can have only one co-head. Minors who are emancipated under state law may be designated as a co-head.

Other adult means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. (Foster adults and live-in aides are not considered other adults, see Section K., of this Chapter for foster adults and Section M., for live-in aides).

E. Dependent [24 CFR 5.603]

A dependent is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: head of household, spouse, co-head, foster children/adults and live-in aides.

Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 8.

1. Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or tenant family 50% 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 PHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

F. Full-Time Student [24 CFR 5.603]

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

Identifying each FTS is important because:

- each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent deduction and;
- income of FTS is treated differently from the income of other family members.

G. Elderly, Near-Elderly Persons and Elderly Family

An *elderly person* is a person who is at least 62 years of age [24 CFR 5.100].

A *near-elderly* person is a person who is 50-61 years of age [24 CFR 945.105].

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person [24 CFR 5.403]. Identifying an elderly family is important because they qualify for the elderly family and medical allowances as described in Chapter 8.

H. Persons with Disabilities [24 CFR 5.403]

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individuals with handicaps and persons with disabilities are at the end of this chapter (Exhibit 3-1). The definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

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

I. Disabled Family [24 CFR 5.403]

A disabled family is one in which the head, spouse, or co-head is a person with disabilities. Identifying a disabled family is important because they qualify for the disabled family allowance and medical allowance as described in Chapter 8.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying admission or

taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in this chapter and in Chapter 19.

J. Guests [24 CFR 5.100]

A guest is defined as a person in the leased unit or on the property with the consent of a Resident's household member.

The lease states that the family will not have guests or visitors in the unit for more than fourteen (14) consecutive days without prior written approval of Management. Management may regulate, limit, or prohibit from Housing Authority property guests who have been disturbing other residents or violating this Lease of Management Policies.

The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near PHA premises [24 CFR 966.4(f)].

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

Former tenants whose lease has been terminated are not permitted as overnight guests.

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

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last more than 14 days). Written verification will be required from a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker or case worker as to the anticipated time of recovery. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

K. Foster Children and Foster Adults

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)].

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Foster children and foster adults that are living with an applicant or tenant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603].

Children that are temporarily absent from the home as a result of placement in foster care are discussed in below in Section L., paragraph 3.

L. Absent Family Members

Individuals may be temporarily or permanently absenting from the unit for a variety of reasons including educational activity, placement in foster care, employment, or illness.

The PHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent.

The income of persons permanently absent will not be counted. If the spouse is temporarily absent and, in the military, all military pay and allowances (except hazard duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The PHA will evaluate absences from the unit in accordance with this policy.

1. Definitions of Temporarily and Permanently Absent

Generally, an individual who is or is expected to be absent from the public housing unit for 90 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 public housing unit for more than 90 days is considered permanently absent and no longer a family member.

2. Absent Students

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 indicating that the student has established a separate household, or the family declares that the student has established a separate household.

3. Absences Due to Placement in Foster Care [24 CFR 5.403]

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

4. Absent Head, Spouse, or Co-head

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

5. Individuals Confined for Medical Reasons

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member and the income of that person is not counted.

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

6. Return of Permanently Absent Family Members

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

7. Caretakers for a Child

If neither a parent nor a designated guardian remains in a household, the PHA may consider approval of a caretaker for the remaining children in the unit. The approval of a caretaker is at the PHA's discretion and subject to the PHA's screening criteria.

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 and subject to visitor policy.

M. Live-In Aide

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- is determined to be essential to the care and well-being of the person(s),
- is not obligated for the support of the person(s), and
- would not be living in the unit except to provide necessary support services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide may be made either orally or in writing. The PHA will verify the need for a live-in aide with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker.

The PHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related or violent criminal activity; or

- The person currently owes rent or other amounts to the PHA

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

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

N. Income Eligibility and Targeting

HUD is required by law to set income limits that determine the eligibility of applicants for the public housing program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

1. Types of Low-Income Families [24 CFR 5.603(b)]

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

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

Extremely low-income family (ELI). A family whose annual income does not exceed the federal poverty level or 30% of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families.

HUD may establish income ceilings higher or lower than 30, 50, or 80% of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

2. Using Income Limits for Eligibility [24 CFR 960.201]

Income limits are used for eligibility. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, a family must be a low-income family.

3. Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40% of the families admitted to the PHA's public housing program during a PHA fiscal year must be extremely low-income families. This is called the "basic targeting requirement".

O. Citizenship or Eligible Immigration Status [24 CFR 5, Subpart E]

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

All applicant families will be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA's Limited English

Proficiency Plan, the notice will be in a language that is understood by the individual if the individual is not proficient in English.

1. Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport. The PHA will only ask if they receive information indicating that a declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 10. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Ineligible Noncitizens

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

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

2. Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 9 for a discussion of how rents are prorated, and Chapter 20 for a discussion of grievance hearing procedures.

3. Ineligible Families

The PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

P. Social Security Numbers [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to them, and the documentation necessary to verify each SSN. All children no matter, what age must have a Social Security card number to be declared eligible. A detailed discussion of acceptable documentation is provided in *Chapter 10*.

(These requirements do not apply to noncitizens who do not contend eligible immigration status.) In addition, each participant who has not previously disclosed a SSN, has previously disclosed a SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

Q. Other Documentation

All applicants must submit birth certificates, driver's license, or legal id for all members to be eligible.

R. Family Consent to Release Information

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 10 provides detailed information concerning the consent forms and verification requirements.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program.

The PHA also has a supplemental release form within the application that is required of each applicant and/or tenant. This form allows the applicant/tenant to identify an "emergency contact" if there is an actual or perceived health risk to the family or neighbors, or if continuation of rental assistance is at risk of termination.

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 ability to live independently and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

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

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

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose

participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

- (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine
- (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

(4) Is regarded as having an impairment means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation.
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment.
- (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.

Chapter 4

Denial of Admission

A family that does not meet the eligibility criteria as discussed in *Chapter 3*, must be denied admission.

The PHA has set screening standards that ensure that those persons who are prohibited from being admitted to public housing will not receive assistance. The PHA's authority in this area is limited by the Violence against Women Act of 2013 (VAWA), which expressly prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim 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 [24 CFR 5.2005 (b)].

A. Required Denial of Admission [24 CFR 960.204]

The PHA is 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 tenants.

The PHA will deny assistance for the following cases:

- If any household member has been evicted from federally-assisted housing within the last 5 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 the eviction no longer exist (e.g. family member no longer in the household).
- If 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 within the last 12 months is enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].
- If the PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs or alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants except under the following three circumstances
 - Applicants can prove that they have been rehabilitated or is currently participating in a supervised rehabilitation program.
 - Applicants can produce evidence that they have not committed any additional activity for the past 5 years.

- Applicant can prove that the circumstance that led to the original conviction or condition no longer exists.
 - In determining reasonable cause, the PHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members.
- The PHA will deny admission to applicants convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing, in accordance with HUD regulations.
- In accordance with 24 CFR 960.204(a)(4), the PHA will deny admission to public housing for any applicant who is subject to sex offender lifetime registration under a State sex offender registration program.
- The PHA will deny applicants with past, recent and/or significant criminal activity that is deemed by the PHA's One Strike Policy that would affect others.
- One Strike Policy is a Federal mandated policy which supersedes local and state law. See our One Strike Policy on page 153.

B. 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.

1. Criminal Activity [24 CFR 960.203]

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.

If the PHA determines that any household member is currently engaged in or has engaged in any of the following criminal activities, within the past 5 years, the family will be denied admission.

- i. *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].
 - a) Evicted in the past 5 years from public housing due to drug-related activity.
 - b) "Denied for life" due to a conviction of manufacturing methamphetamine (speed).
- ii. *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].

- iii. Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].
- iv. Criminal activity that may threaten the health or safety of PHA staff, contractors, subcontractors, or agents.
- v. Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.
- vi. “Denied for Life” due to Lifetime registration in a sex offender registration program.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past 5 years. A conviction for such activity will be given more weight than an arrest or an eviction. A record of arrest(s) 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 PHA will consider the factors discussed in Sections D. and E. of this Chapter. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

2. Previous Behaviors [24 CFR 960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes PHA’s 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 will consider the time, nature, and extent of the applicant’s conduct (including the seriousness of the offense). 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.

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

- i. Has a pattern of unsuitable past performance in meeting financial obligations, especially rent and utilities within the past 5 years
- ii. Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past 5 years which may adversely affect the health, safety, or welfare of other tenants
- iii. Has a pattern of eviction from housing or termination from tenant-based programs within the past 5 years (considering relevant circumstances)
- iv. Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program

- v. Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- vi. Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- vii. Have not confirmed their continued interest in housing
- viii. Have a member of their household who has been evicted from public housing in the past 5 years
- ix. Has engaged in or threatened violent or abusive behavior toward PHA personnel.
- x. Have not met all of the eligibility requirements.

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

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

In making its decision to deny admission, the PHA will consider the factors discussed in Sections D. and E. of this Chapter. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny admission.

The PHA 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.

C. Screening for Eligibility

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

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

In order to determine the suitability of applicants the PHA will examine the following applicant history:

1. Past Performance in Meeting Financial Obligations

- i. The PHA will check landlord references for the past 5 years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. Landlords will be asked if they would rent to the applicant family again.

- ii. Former tenants of the PHA that are left owing a balance will not be considered for housing until the balance is paid in full. Likewise, balances owed to any other housing assistance program shall be a means for denial.
- iii. Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name.
- iv. If previous landlords or the utility company do not respond to requests from the PHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

2. Disturbance of Neighbors, Destruction of Property and Housekeeping

- a) The PHA will check landlord references for the past 5 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 to the unit, and if so, how much it cost to repair damages; 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.
- b) Police and court records for the past 5 years will be checked for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying activity.
- c) An applicant's behavior toward PHA staff will also be considered in relation to future behavior towards neighbors. Physical, verbal abuse, threats or apparent signs of intoxication by an applicant toward PHA staff will be noted and are valid reasons for denial.

3. Criminal Background Checks

The PHA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities.

- Each applicant is required to disclose criminal/drug related activity for all members in the household.
- All adult family members must submit a signed Criminal Background Consent form in order for the PHA to obtain access to criminal background records [24 CFR 5.903].
- The PHA will not pass along to the applicant the cost of criminal record check [24 CFR 960.204(d)].

The PHA will perform criminal background checks through local law enforcement and using but not limited to FBI finger printing, DOJ Lifetime Sex Offender, 3rd Party Software, County and Statewide Criminal searches. A family may be denied assistance if results show

evidence which would prohibit admission to public housing.

The PHA will ask if any member of the applicant's household is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28]. The PHA will perform a criminal background check necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

A positive response from a criminal background check on an applicant family member will be viewed as a signal to obtain additional information, not as a green light to deny the family. The PHA will use good judgment and fairness in screening for criminal activity, making every effort to reject the applicant who is potentially dangerous, but accepting the applicant who may have made a mistake but has turned his/her life around. Information of this type will be assessed on a case-by-case basis.

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

4. Record of Eviction

The PHA will check in-house records, landlord records and other court records to determine whether an applicant has been evicted from the PHA program, other assisted housing, or any other property in the past 5 years.

If an applicant, as a former tenant in subsidized housing, was involuntarily compelled to terminate a lease, the applicant will not be reconsidered for housing for a period of 5 years from the date of involuntary termination.

In looking at past records of eviction or lease termination, the PHA will carefully check into the facts and consider the family's income and composition at the time of eviction/termination of the lease.

5. Misrepresentation or Falsification

If, during the course of processing an application, it becomes evident that any applicant has falsified or otherwise misrepresented any facts about his/her current situation, history, or behavior in a manner that would affect eligibility, preference, applicant selection criteria qualifications, allowances or rent, the application shall be rejected. In addition, fraud charges should be pursued under any Federal or State civil or criminal statute that may apply.

This provision shall not be applied to minor mistakes that produce no benefit to the applicant. Allegations, complaints, or other observations that indicate a family is receiving more benefits than it is entitled to receive will be investigated by the PHA. If false statements result in the family paying less rent, it will be vigorously pursued by the PHA. After verification of misrepresentations, the PHA will take necessary steps to recover the un-entitled payments (including retroactive charges to the original date of misrepresentation and the establishment

of a repayment contract), or civil or criminal court actions, or judgments, as deemed appropriate.

D. Criteria for Deciding to Deny Admission

1. Evidence

The 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.

2. Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes PHA's 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 A. in this Chapter*).

In the event the PHA receives unfavorable information with respect to an applicant, the PHA will consider the following facts and circumstances prior to making its decision:

- i. The seriousness of the case, especially with respect to how it would affect other tenants' safety or property.
- ii. 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 below in Section E.*) a victim of domestic violence, dating violence, sexual assault, or stalking.

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

- iii. While a record of arrest(s) will not be used as the sole basis for denial, an arrest may trigger an investigation to determine if the applicant actually engaged in disqualifying criminal activity. As part of an investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:
 - Any statements made by witnesses or applicant not included in the police report,
 - Whether criminal charges were filed,

- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal,
 - Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity,
- ii. Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
 - iii. Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs
 - iv. 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 and documentation is provided.

3. Removal of a Family Members Name from Application

Should the PHA's screening process reveal that an applicant's household includes an individual that is a lifetime registered sex offender, 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 member as a condition of receiving assistance [24 CFR 960.203(c)(3)(i)]. In such instances, the head of household must certify that the removed 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 the PHA request.

4. Reasonable Accommodation

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.

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA 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.

E. Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

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

Definitions of key terms used in VAWA are provided in *Chapter 23* of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

The PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking 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 PHA's policies.

While the PHA 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, the applicant may inform the PHA that their status as a victim is directly related to the grounds for the denial. The PHA will request that the applicant provide enough information to make a reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The PHA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with *Chapter 23* of this ACOP, a notice of VAWA rights form HUD-5380 (**Exhibit 23-1**), and a copy of the VAWA certification form HUD-5382 (**Exhibit 23-2**). The PHA will request in writing that an applicant wishing to claim this protection notify the PHA within 10 business days.

1. Victim Documentation [24 CFR 5.2007]

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the PHA will request in writing that the applicant provide documentation supporting the claim in accordance with *Chapter 23, Section D.*, of this ACOP.

2. Perpetrator Documentation

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 belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

F. 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 D. of this Chapter*.

If a denial is based on a criminal record or sex offender registration, and the applicant family appears to be ineligible, the PHA will notify the family in writing of the proposed denial and provide a copy of the record.

The family will have 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 10-day period, the PHA 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 *Chapter 3, Section O*.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, or stalking are contained in *Section E., of this Chapter*.

G. Appeal of Application Denial

Upon notification of denial, the applicant may request, in writing, an appeal with-in ten (10) days of receipt of denial.

Denial of housing may be disputed in the following manner:

- Those denied housing because of illegal use of a controlled substance may provide evidence that they have completed rehabilitation according to PHA standards and that they have committed no additional criminal activity for twenty-four (24) months.
- Those denied housing because of dangerous sex offender status may provide evidence that they are not in fact subjected to lifetime registration requirements under state sex offender registration program.

Chapter 5

Application Process

PHA policy is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply and treated in a fair and consistent manner. Families wishing to participate in the low-income public housing program must submit an application and provide all information requested by the PHA.

A. Applying for Assistance

Any family that wishes to reside in public housing must apply for admission to the program. Applications are available at the management office located at 902 Palm St, Monday through Friday from 9:00 am to 3:00 pm. Families may also request an application be mailed or emailed to them by calling the office at (913) 352-6289. Applications can also be downloaded from the PHA's website, www.ptownhudks.org.

Only two application will be given to an applicant to take home to fill out. If those applications are not returned and applicant requests another application, that application will be filled out in the office and returned without leaving the building. If the applicant does not have time to fill out the application they may come back at their convenience during business hours.

The PHA will provide reasonable accommodations as needed for persons with disabilities to make the application process fully accessible. *Chapter 2* provides the PHA's policy on reasonable accommodations for people with disabilities.

If an application is incomplete, the PHA will notify the family. The applicant family will have 30 days to provide additional information to complete the application process. It is important for the applicant to notify the PHA if more time is required to provide requested information.

B. Placement on the Waiting List

The PHA reviews each completed application and makes a determination of eligibility based on PHA eligibility and screening criteria. No applicant has the right or entitlement to be placed on the waiting list, or to any particular location on the waiting list.

1. Ineligible for Placement on the Waiting List

If the PHA determines from information provided on the application, that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, the PHA will send a written notification of ineligibility. The notice will specify the reasons for ineligibility and will inform the family of its rights to request an informal hearing and explain the process for doing so.

2. Eligible for Placement on the Waiting List

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant will be notified **by mail**. Applicants will be placed on the waiting list according to PHA preference(s) and the date and time their completed application is received by the PHA.

The PHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (*Chapter 6, Section F.*). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to PHA standards of no more than 2 persons per room). However, in these cases, the family must agree not to request a transfer for 1 year after admission, unless they have a change in family size or composition.

C. Waiting List Management

The PHA's waiting list is organized in such a manner to allow the PHA to accurately identify and select families in the proper order. The waiting list will contain the following information for each applicant listed:

- Name
- Unit size required (number of family members)
- Accessibility requirement, if any
- Date and time of application
- Eligibility date
- Household type (family, elderly, disabled)
- Status

Any applicant may notify the PHA at any time of changes in applicant status, at which time the PHA shall make note in the applicant's file and appropriately update the applicant's waiting list status. Any change will be confirmed in writing to the family.

1. Opening and Closing Waiting List

In order to maintain a balanced application pool, the PHA at its discretion, may restrict application intake, suspend application intake, and close waiting lists in whole or in part.

If the PHA has sufficient applications in its highest preference category to fill anticipated vacancies for the coming 18 months, it may elect to: (a) close the waiting list completely; (b) close the list during certain times of the year; or restrict intake by type of development, or by size and type of dwelling unit [PH Occ GB, p. 31].

Closing the waiting list, restricting intake, or opening the waiting list will be publicly announced in the local newspaper and by informing local agencies that serve the same population.

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

2. Removing Applicants from the Waiting List

The PHA may only remove applicants from the waiting list because they have been housed, applicant requested the name be removed, refused an offer without good cause or the PHA is unable to make contact with them.

No informal hearing is required following this type of withdrawal. The PHA will maintain files of withdrawn applicants for 3 years or until the next HUD occupancy audit.

The PHA will remove an applicant's name from the waiting list under the following circumstances:

- i. The applicant requests that the name be removed.
- ii. The applicant has failed to contact the PHA to show continued interest in housing for one year.
- iii. The PHA has made reasonable efforts to contact the applicant to determine continued interest but has been unsuccessful.
- iv. The PHA has made reasonable effort to contact the applicant to schedule interviews necessary to complete the application process or obtain information necessary to process the application; and the applicant has failed to respond.
- v. When an applicant fails to keep a scheduled interview or fails to respond to the PHA concerning information necessary to update the application. In this case, the PHA will notify the applicant in writing that he/she has 10 days within which to reschedule the interview or provide the needed information. If the applicant fails to respond within that period, the application will be withdrawn from the waiting list.

The PHA will consider and document mitigating circumstances such as health problems or lack of transportation in determining if the application should be withdrawn.

- vi. Failure to respond to a unit offer shall be cause for the applicant family to be dropped from the waiting list. The PHA will call the family and if they cannot be reached by phone, a unit offer letter will be mailed to the family. The family will have 5 business days to respond to the unit offer.

D. Family Outreach

The PHA will publicize in local newspapers, post on social media and other applicable means to make known the availability of housing units and housing-related services for very low-income families on a regular basis.

E. Reporting Changes While on the Waiting List

When a family is on the waiting list, the family must inform the PHA, within 10 days of changes in family size or composition, preference status, or contact information, including current residence, mailing address and phone number. The changes may be submitted in writing, email, fax or by telephone.

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

Chapter 6

Tenant Selection, Occupancy Standards and Offer

HUD requires PHA's to establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. 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 a family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

A. Local Preferences

The PHA is permitted to establish local preferences and give priority to serving families that meet the criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. 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)]. ***Per HUD regulations, equal preference must be given to Elderly and Disabled Families.***

A preference does not guarantee admission; an applicant must still meet the PHA's screening criteria before being accepted as tenant.

The PHA will give consideration to applicant families that are victims of domestic violence, dating violence, sexual assault, or stalking.

If the time between verification and the date of admission is less than 90 days the preference will not need to be re-verified. If the time between verification and the date of admission is over 90 days the preference may be updated with phone verification.

B. Income Targeting [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make-up at least 40% 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% of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, the PHA may skip non-ELI families on the waiting list in order to select an ELI family.

C. Deconcentration of Poverty and Income Mixing

The PHA's admission policy is designed to provide deconcentration of poverty and income mixing by bringing higher income tenants into lower income developments and lower income tenants into higher income developments [24 CFR 903.1 and 903.2].

An applicant's gross annual income is used to determine income limits at admission and for income-mixing purposes. The PHA may skip a family on the waiting list to reach another family in an effort to further the goals of deconcentration.

Deconcentration will apply to transfer families as well as applicant families.

D. Mixed Population Developments

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the PHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families. *(See Chapter 3, Section G., and I., for definition of elderly family and disabled family).*

The PHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The PHA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the PHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The PHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

E. Order of Selection

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

Applicants will be selected in the following order:

1. Substandard Housing: [24 CFR Part 960.211] Housing will be considered substandard if it:
 - i. Is living in a Dilapidated dwelling that does not provide safe, adequate shelter or present a condition that endanger the health, safety or well-being of the family
 - ii. Applicant is paying more than 50% of family income in rent [24 CFR Part 601.21].
 - iii. Involuntary displacement due to Nature Disaster, Code enforcement, or an action by the housing owner.
 - iv. Local Residency
 - v. Elderly Families will be given preference for units specifically built for elderly families
 - vi. Veteran or Serviceman or is a dependent.
 - vii. Date and time of application approval
 - viii. Singles person

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

F. Occupancy Standards

The following standards will govern the number of bedrooms required to accommodate a family of a given size and composition. Exception to these standards may be made in cases of extreme emergency, of a temporary nature, at the discretion of the Executive Director or designee.

Number of Bedrooms	Number of Persons Maximum
0	1
1	2
2	4
3	6

1. Determining Unit Size

Dwelling units will be so assigned that:

- i. It will not be necessary for persons of different generations or opposite sex, to occupy the same bedroom; (An exception may be made for infants and young children up to the age of six who are the opposite sex).
- ii. For verified reasons of health (old age, physical disability, etc. as verified), a separate bedroom may be provided for an individual family member.
- iii. A single parent and a child will be placed on a 2-bedroom waiting list.
- iv. An unborn child may or may not be counted in determining unit size. A single pregnant woman with no dependents may be assigned to a 1-bedroom unit.
- v. An elderly, handicapped or disabled person requiring a live-in aide will have separate bedrooms.

2. Exception to Occupancy Standards

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

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to PHA standards (e.g. no more than 2 persons per living/sleeping room, or local code). The family agrees not to request a transfer for a period of 1 year from the date of admission, unless they have a subsequent change in family or composition. Families requesting an emergency transfer may be granted an exception to the occupancy standards.

To prevent vacancies, the PHA may provide an applicant family with a larger unit than the occupancy standards permit, or a unit with accessible features that the family may not need. However, in these cases the family must agree to move to a suitable unit, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for

the family to transfer to. The PHA will do its best to advise the family of a transfer 30 days in advance.

When an exception is made for a unit different than what the occupancy standards outline, it will be documented in the applicant's file for future reference or clarification.

G. Unit Offer

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

The PHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection. When the PHA has multiple vacant units that an eligible family qualifies for, the unit that has been vacant the longest will be offered first.

In filling an actual or expected vacancy, the PHA will contact the first family on the waiting list who has the highest priority and whose income category meets the income goal and/or deconcentration goal. The PHA will telephone the first family and if they cannot be reached by telephone, a written offer for the unit will be mailed to them. The family will have 5 business days to respond to the PHA in regard to the offer.

The family will have the opportunity to view the unit and then be given 2 business days to accept or reject the offered unit. The offer and the family's response to the offer will be documented in the tenant file. A letter will be sent to the family confirming their response.

1. Rejecting an Offer with Good Cause

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 the acceptance of the offer would cause undue hardship.

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

- The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with *Chapter 23* of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for the 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.

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 PHA will require documentation of good cause for unit refusals.

2. Unit Refusal without Good Cause

When an applicant rejects a unit offer without good cause, the PHA will move the applicant's name to the bottom of the waiting list and notify the applicant.

If an applicant family rejects a second unit offer without good cause they will be removed from the waiting list and may not reapply for 12 months. The PHA will send a notice to the applicant family of such action and inform the family of their right to request an informal hearing and process for doing so (*see Chapter 20*).

3. Accepting an Offer

When an applicant family accepts a unit offer, the PHA will provide additional instructions that must be done prior to lease signing. A time will be set up to sign the lease that is agreeable with the family's schedule. All adults in the household must be present at the lease signing.

4. No Response to Offer

If the notification letter is returned to the PHA with no forwarding address, or if the family fails to contact the PHA within 5 business days with a response, the family will be removed from the waiting list without further notice.

H. Accessible Units

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

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

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

Families requiring an accessible unit may be over-housed in such a unit if there is no tenant or applicant family of the appropriate size who also requires the accessible features of the unit.

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

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

Chapter 7

Income

A family's annual income is used to determine their income eligibility for the public housing program and to calculate the amount of the family's rent payment. The PHA will use the policies and methods described in this chapter to ensure that only income-eligible families receive assistance and that no family pays more or less rent than is required under the regulations.

A. Annual Income

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

Annual Income 24 CFR 5.609(a)

Annual income includes, with respect to the family:

- All amounts, not specifically excluded, received from all sources by each member of the family 18 years or older or is the head of household or spouse of the head of household, plus
- Unearned income by or on behalf of each dependent who is under 18 years of age
- Actual income from assets

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (**Exhibit 7-1**)
- Annual Income Exclusions (**Exhibit 7-2**)
- Treatment of Family Assets (**Exhibit 7-3**)
- The Effect of Welfare Benefit Reduction (**Exhibit 7-4**)

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 any changes in family composition and income. The rules on which sources of income are counted vary somewhat by family member.

The following chart 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(b)(a)]
Foster child or foster adult	Payments received for the care of foster children or adults, including state kinship, guardianship care payments, or tribal kinship payments[24 CFR 5.609(b)(4)]
Head, spouse, or co-head, adult family members	All sources of income not specifically excluded by the other regulations are included.
Children under 18 years of age	Earned income is excluded [24 CFR 5.609(b)(3)]. 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)	Earned income of dependent full-time students in excess of the amount of the deduction for a dependent. <ul style="list-style-type: none"> Deduction is currently \$480* per dependent.[24 CFR 5.609(b)(14)]. All other sources of income, except those specifically excluded by the regulations, are included.

NOTE: 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. See *Chapter 3, Section L.*, for clarification of temporarily absent.

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)].

The Housing Opportunity Through Modernization Act (HOTMA) of 2016, Sections 102, effective January 1, 2024, implements updated standards on when and how annual re-examinations and interim re-examinations are conducted.

1. Initial Examinations

A tenant’s initial examination will be conducted on the date of move-in. At this stage, the new tenant will report all income earned and other income. The information supplied will be used

to anticipate the family's total income for the upcoming 12-month period.

- a) Under HOTMA, members of the household who are 18 years or older must sign the HUD-9886 Release of Information form. This updated form will only need to be signed once during residency. If an adult refuses to sign or revokes the HUD-9886 then they will be denied admission to Pleasanton Housing Authority (PHA) or their lease will be terminated. [24 CFR 5.232(c)]

2. Interim Re-Examination

At any time during the year if the family's income or family size changes, the head of household has 30 days to report this change to the housing office. An interim will be calculated using current income information to anticipate income for the coming year. The head of household can request an interim at any time during residency.

- a) The following apply to interim re-examination:
 - (1) If the size of the family changes, a person is added or removed from the household, then an interim re-examination will be completed within 30 days of being reported to the office.
 - (2) If the families income decreases:
 - (a) After the decrease is reported the PHA will determine if the annual family income decreased by 5% or more.
 - (b) If the income decreases by 5% or more then an interim re-examination will be conducted.
 - (c) If the income decrease is not 5% or more then the head of household will be informed that no interim will be conducted.
 - (d) If the decrease is reported according to this policy, then the Interim Rent Decrease will be effective on the 1st day of the month following the completion of the re-examination.
[24 CFR 960.257(b)(2), 982.516(c)(2), 882.515(b)(2), 891.410]
- b) If the families' income increases:
 - (1) If the families' income increases by 10% or more, an interim re-examination will be completed.
 - (a) Earned income will not be considered when determining whether the adjusted annual income has increased unless the family had received an interim rent reduction during the same re-examination cycle.
 - (i) Earned income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. [24 CFR 5.100]
 - (2) An interim will not be completed if the income increase occurs within 3 months of the family's annual re-examination.

- c) When the family complies with the reporting policy above, the rent increase will begin on the first day of the month following a 30-day notice period.
- d) Example: A rent increase interim was completed on Feb 5th, the first day the increase is effective would be April 1st.
- e) If the family does not comply with the reporting requirements then the interim will be completed and any rent increase will be implemented retroactively to the first month following the date of the income increase. The tenant will be placed on a repayment plan with the housing authority for the additional unpaid rent.
[24 CFR 960.257(b)(3), 982.516(c)(3), 882.515(b)(3)]

3. Annual Re-Examinations

The PHA's annual reexaminations will coincide with the family's anniversary date. The housing authority will begin the annual reexamination process approximately 90 days in advance of the scheduled effective date.

- (1) Annual re-exams will be based on the prior 12-month's income unless streamlined income determination is available (i.e. income determinations under federal benefits programs)
- (2) Income will be verified thru the EIV system
- (3) All tenants 18 years or over are required to sign all documents

D. Income NOT Included in Annual Income

The following types of Income are not included in Annual Income

1. Nonrecurring Income [24 CFR 5.609(b)(24)]

Income that will not be repeated in the coming year based on information provided by the family.

- Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies.
- Examples of non-recurring income include but are not limited to:
 - Payments from the U.S. Census Bureau for employment lasting no longer than 180 days
 - Direct federal or state payments for economic stimulus or recovery
 - State or federal refundable tax credits or tax refunds
 - Gifts for holidays, birthdays, or other significant life events or milestones
 - Non-monetary, in-kind donations, such as food, clothing, or toiletries
 - Lump-sum additions to net family assets, including but not limited to lottery winnings

2. Children's Earnings [24 CFR 5.609(b)(3)]

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income (*see Chapter 3, Section K.*, for definition of foster children).

3. Certain Earned Income of Full-Time Students [24CFR5.609(b)(14)]

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) is not counted. To be considered “full-time,” a student must be considered “full-time” by an educational institution.

4. Income of a Live-in Aide [24 CFR 5.609(b)(8)]

Income earned by a live-in aide is not included in annual income (*see Chapter 3, Section M.*, for a full discussion of live-in aides).

5. Educational Savings Account [24CFR5.609(10)]

Any amount in or from or any benefits, income, or distributions from any Coverdell educational saving account or any qualified tuition program under IRS section 529 and 530.

6. Plan to Attain Self-Sufficiency (PASS) [24 CFR 5.609(b)(12)(i)]

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).

7. Asset Imputed returns [24 CFR 5.609(b)(1)]

Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

8. Insurance payments or Settlements [24 CFR 5.609(b)(5)]

Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation

9. State Payments to allow individuals with disabilities to live at home [24CFR5.609(b)(19)]

All payments by the state Medicaid-managed care system, other state agency, or authorized entity, for caregiving services to enable a family member with a disability to live in the family's assisted unit.

10. Trust Distributions [24CFR5.609(b)(2)]

Irrevocable trust or revocable trust outside of family or household control excluded:

- Distributions of the principal, or corpus, of the trust, and
- Distribution of income from the trust used to pay the costs of health and medical care expenses for a minor
- Revocable trust or a trust under the control of the family or household: any distributions from the trust are excluded from income.

- Except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

11. Federally mandated income exclusions [24CFR5.609(b)(22)]

This section is to be updated by HUD in the Federal Register

- a) Food Stamps (SNAP)
- b) Low-Income Energy Assistance Program (LIEAP)
- c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- d) See Exhibit 7.5 for all current federally mandated exclusions

12. Adoption assistance payments [24 CFR 5.609(b)(15)]

Earned income in excess of the amount of the deduction for a dependent in § 5.611.

- a) Deduction is currently \$480* per child. The end result is that all adoption assistance payments will be excluded.

13. Retirement Plan [24CFR5.609(b)(26)]

Income received from any account under an IRS-recognized retirement plan.

However, any distribution of periodic payments from these accounts shall be income at the time they are received by the family.

14. Special Military Pay [24CFR5.609(b)(11)]

Special pay for armed forces family members who are exposed to hostile fire.

15. Lawsuit Settlements [24CFR5.609(b)(7)]

Lawsuit Settlements recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty that resulted in a disability.

16. Reparations for Persecution [24CFR5.609(b)(13)]

Reparations paid by a foreign government for claims by people persecuted during the Nazi era.

17. Tribal Claims Payments [24CFR5.609(b)(21)]

Tribal claim payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States.

18. Foster Children or foster adult payments [24CFR5.609(b)(4)]

Payments received for the care of foster children or adults, including state kinship, guardianship care payments, or tribal kinship payments.

19.

20. Housing “gap” payments 24 CFR 5.609(b)(23)

Replacement housing “gap” payments that offset increased rent and utility costs to families that are displaced from one federally subsidized housing unit and move into another federally

subsidized housing unit (49 CFR part 24).

- a) If the gap is reduced or eliminated because of a subsequent move by the tenant or change in the subsidy, and the tenant continues to receive the payment, the payment that is no longer needed to close the gap should be counted as income.

21. Deferred Supplemental Security Income, Social Security benefits, or Department of Veterans Affairs disability benefits [24 CFR 5.609(b)(16)]

Deferred periodic amounts from:

- a) Supplemental Security Income and Social Security benefits that are received as a lump sum or in prospective monthly amounts, or
- b) Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

21. Other Exclusions

- Earned Income of a foster child or foster adult [24CFR 5.609(B)(8)]
- Reimbursement for Health and Medical Care Expenses [24CFR5.609(b)(6)]
- Baby Bonds [25CFR 5.609 (b)(10)]
- Veteran – Payment related to aid and attendance for veterans under 38 U.S.C. 1521. [24CFR5.609(b)(17)]
- Lump sum Payments from an Inheritance
- Civil rights settlement or judgments, including settlement or judgements for back pay. [24CFR5.609(b)(25)]
- Family Self Sufficiency Account – income earned on amounts placed in family's FSS. [24CFR5.609(b)(b)(27)]
- State and Federal Tax Returns
- Loan Proceeds – net amount disbursed by a lender to a borrower, under the loan terms. [24CFR5.609(b)(20)]

22. Reimbursements from other publicly assisted programs [24 CFR 5.609(b)(12)(ii)]

Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) to allow participation in a specific program.

23. Tenant Service Stipend [24CFR5.609(b)(12)(iii)]

Amounts received under a tenant service stipend are not included in annual income. A tenant service stipend is a modest amount (not to exceed \$200 per month) received by a tenant for performing a service for the PHA, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, tenant initiatives coordination, and serving as a member of the PHA's governing board. No tenant may receive more than one such stipend during the same period of time.

24. Increment Earnings

Earnings from employment during the 12-month period following date of hire shall be excluded. This is only applicable to the following families

- Families who are or were within the past 6 months getting TANF Cash Assistance
- Employment of a family member who had been unemployed for one or more years.
- Participation of a family member involved in a family self-sufficiency program.

25. Employment training programs 24 CFR 5.609(b)(12)(iv)

Incremental earnings and benefits from training programs funded by HUD or qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff.

- Excluded amounts must be received under employment training programs with clearly defined goals and objectives and only excluded during participation in the program unless the amounts are excluded as Federal Financial Aid (§ 5.609(b)(9)(i)).

26. 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.

E. Student Aid & Annual Income

The Housing Opportunity Through Modernization Act (HOTMA) of 2016, Sections 102, effective January 1, 2024 mandates the exclusion of earned income for full-time students that are dependents and the exclusion of certain financial aid for both full and part-time students.** The new rules created two categories of student financial aid. Both categories apply equally to full and part-time students.

When a student is receiving assistance that is excluded under both categories, Category One must be applied first. Category Two can then be applied to any remaining actual covered costs. Once actual cost are covered, any remain student financial assistance would be considered income.

The tenant must provide documentation on all student financial aid and for the actual covered costs charged by the institute of higher education.

Actual covered costs include: the actual costs of tuition, books and supplies (including supplies and equipment to support students with disabilities), room and board, and other fees required and charged to a student by a higher education institute, including the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit expressly for a student who is not the head of household or spouse.

Category One:

Title IV HEA Assistance [24CFR5.609(9)(i) - Any assistance that section 479B of the Higher

Education Act of 1965 as amended (20 U.S.C. 1087uu) requires to be excluded from a family's income. This includes but is not limited to:

- Bureau of Indian Affairs/Education student assistance programs
Current examples include:
 - The Higher Education Tribal Grant
 - The Tribally Controlled Colleges or Universities Grant Program
- Federal Pell Grants
- Teach Grants
- Federal Work-Study Programs
- Federal Perkins Loans

Category Two:

Other student financial assistance [24CFR5.609(9)(ii)] – To qualify as excluded assistance under this category, the aid must be:

- Used for “actual covered costs” tuition, books and supplies (including supplies and equipment to support students with disabilities), room and board, and other fees required and charged to a student by a higher education institute.
- Expressly to assist a student who is not the head of household or spouse, with the reasonable and actual cost of housing while attending the institution of higher education and not residing in an assisted unit
 - A grant or scholarship received from the Federal Government, a State, Tribe, or Local Government, a private Foundation registered as a nonprofit under 26 USC 501(c)(3), a business entity, or an institution of higher education.

The aid may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the housing authority as consistent with this section.

Financial assistance, excluded here, does not include:

- Any assistance that is already excluded under Title IV of the HEA
- Financial support provided to the student in the form of a fee for services performed, e.g. work study or a teaching fellowship not excluded as Title IV of the HEA.
- Gifts, including from family and friends
- Any amount of the scholarship or grant that, either by itself or in combination with HEA assistance exceeds the actual covered cost of the student.

Example of Calculating Student Financial Aid

Title IV HEA Assistance	\$15,000
Category Two Assistance	\$5,000
Actual Covered Cost	\$18,000

\$18,000 would be excluded from this family's income. The remaining \$2,000 would be included as income.

F. Self-employment Income [24 CFR 5.609(b)(28)]

Annual income includes the gross income received through self-employment or operation of a business; with the exception of the following which shall be considered income:

- 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 IRS regulations; and
- 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.

Note: Gross income is the total income that a business brings in and is not reflective of the costs of operating a business or of being self-employed.

G. Assets [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

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".

The PHA must determine the value of the asset in order to compute income from the asset.

Exhibit 7-1 provides the regulatory requirements for calculating income from assets and **Exhibit 7-3** provides the regulatory definition of net family assets.

1. Definition of Assets [24 CFR 5.603(b) "Net Family Assets" Para. (1)]

Net family assets: the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment.

2. Limitation on Assets [24 CFR 5.618(a)]

HOTMA restricts families from receiving assistance in the public housing program if their net family assets exceed \$100,000 (HUD adjusted yearly by CPI-W to reflect inflation) or if the family owns real property suitable for the family to live in. There are qualifications and exemptions for both requirements.

3. Restriction on Owning Real Property Suitable for Occupancy [24 CFR 5.618(a)(ii)]

A family cannot receive benefits if they have "present ownership interest in, a legal right to reside in, and the effective legal authority to sell, based on state or local laws of the jurisdiction where the property is located, real property that is suitable for occupancy by the family as a residence."

(a) Real Property Exceptions:

- (i) Property that is unsuitable for occupancy (see below)
- (ii) Property owned with someone else and occupied by the other owner
- (iii) Property that is for sale
- (iv) Victim of domestic violence, dating violence, sexual assault or stalking (VAWA Policy)

If a family has property that is “Suitable for Occupancy” then under HOTMA they do not qualify for HUD Housing.

Property is deemed not “suitable for occupancy” if:

- a) Does not meet disability-related needs
- b) Is not sufficient for size of family
- c) Location of property would be a hardship for family’s commute to work or school
- d) Unsafe because of physical condition
- e) Property is not zoned for residential use

4. Income from Assets [24 CFR 5.609(a)]

The PHA 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

- (a) an imminent change in circumstances is expected,
- (b) it is not feasible to anticipate a level of income over 12 months or
- (c) 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.

If it is not possible to calculate an actual return on an asset, and:

- a) The net family assets are \$50,000* or less, the imputed income from that asset is excluded
- b) The net family assets are over \$50,000*, the PHA must impute income for the asset based on the current passbook savings rate, as determined by HUD
- c)

Net Family Assets Scenario	Actual Income	Imputed Returns	Amount Included in Income
Assets of \$50,000 or less	Included	Not calculated	Actual income only
Exceeds \$50,000 and actual income can be computed for ALL assets	Included	Not calculated	Actual income only
Exceeds \$50,000 and NO actual income can be computed	N/A	Calculated using HUD passbook rate for all assets	Imputed returns for all assets
Exceeds \$50,000, but actual income can only be computed for some assets	Included for assets that can be computed	Calculated for any remaining assets where actual income cannot be computed	Actual income that can be computed AND imputed returns for all remaining assets that cannot be computed

*Amounts adjusted yearly by Hud based on CPI-W to reflect inflations

5. Valuing Assets

The calculation of asset sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- a. 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).
- b. The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

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 (PH Occ GB, p. 121).

6. Determining net family assets 24 CFR 5.603(b) "Net Family Assets" Para. (2)

PHAs must 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 or reexamination, in excess of the consideration received.

- 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 consideration not measurable in dollar terms.
- Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify an exclusion from family assets.

7. 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).

8. 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.

9. 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.”

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she 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 PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA will prorate the asset evenly among all owners.

10. Assets Disposed of for Less than Fair Market Value [24 CFP 5.603(b) para (2)]

HUD regulations require the PHA to count as a current asset the value in excess of what was received in compensation for any business or family assets disposed of for less than fair market value (including a disposition of trust) during the two (2) years preceding the date of application, except as noted below.

i) Minimum Threshold

The PHA 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.

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 nonrevocable 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.

ii) Separation or Divorce

For disposition through a separation or divorce settlement, the disposition will not be considered to be less than fair market value if the family member receives consideration not measurable in dollar terms.

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.

iii) 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.

iv) Family Declaration

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of or declare that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

H. Types of Assets

This section describes what is considered to be an asset and how income from that asset will be calculated and included in annual income.

1. Checking and Savings Accounts

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.

The PHA will:

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

2. Investment Accounts

Interest or dividends earned by investment accounts (such as Stocks, Bonds, Saving Certificates, and Money Market Funds) 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. The PHA, in determining the market value of an investment account, will use the value of the account on the most recent investment report.

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 PHA will calculate asset income based on the earnings for the most recent reporting period.

3. Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third-parties (the beneficiaries).

i) Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust. Distribution of income from the trust used to pay the costs of health and medical care expenses for a minor will not be considered income.

ii) Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)].

4. Retirement Accounts [24 CFR 5.609(b)(26)]

Income received from any account under an IRS-recognized retirement plan will be excluded from Annual Income. However, any distribution of periodic payments from these accounts shall be income at the time they are received by the family.

Retirement accounts include:

- Individual retirement arrangements (IRAs)
- Employer retirement plans, and
- Retirement plans for self-employed individual

5. Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc. is considered an asset. In determining the value of personal property held as an investment, the PHA will use the family's estimate of the value. The PHA 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)].

Necessary personal property items are determined on a case by case basis.

6. 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. 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.

I. 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.

1. Periodic Payments Included in Annual Income

Periodic payments from sources such as social security, unemployment, welfare assistance, annuities, insurance policies, retirement funds, and pensions are included in Annual Income. 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)].

2. 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 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)].

3. 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 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 2012-10].

4. 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) [24CFR5.609(b)(4)].
- Amounts paid by a state agency to allow individuals with disabilities to live at home [24CFR5.609(b)(19)]. HOTMA expands the exclusion to cover all payments by the state Medicaid-managed care system, other state agency, or authorized entity, for caregiving services to enable a family member with a disability to live in the assisted unit.
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C.1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the

amount due as part of payroll payments from an employer.

- Lump-sums received as a result of delays in processing Social Security and SSI payments [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

J. Payments in Lieu of Earnings

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump-sum (as a settlement, for instance), they are treated as lump-sum receipts CFR 5.609(c)(3)].

K. Welfare Assistance

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

NOTE: The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as **Exhibit 7-4**. This rule applies only if a family was a public housing tenant at the time the sanction was imposed.

L. Periodic and Determinable Allowances

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.

1. Alimony and Child Support

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

The PHA will generally verify the amount of alimony or child support that was received by the family over the prior 12 months and use this amount as the anticipated income over the 12-month period following admission or reexamination. The family may present documentation demonstrating why this amount does not accurately represent the anticipated amount of income the family will receive, and the PHA will consider the justification.

Families who do not have court-awarded alimony or child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

2. Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis.

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

M. Additional Exclusions From Annual Income

Other exclusions contained in 24CFR5.609(b) and updated 1/14/2024 that have not been discussed earlier in this chapter include the following:

- Refunds or rebates on property taxes paid on the dwelling unit [24CFR5.609(b)(18)]
- 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:

- Benefits under Section 1780 of the School Lunch Act & Child Nutrition Act of 1966, including WIC
- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- 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)
- Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f (b))
- A lump-sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al., for a period of 1 year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians

in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

- Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- 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)
- Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- 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

EXHIBIT 7-1: Annual Income Inclusions

EFFECTIVE DATE NOTE: At 88 FR 9657, Feb. 14, 2023, §5.609 was revised, effective Jan. 1, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 5.609 Annual income.

- A. Annual income includes, with respect to the family:
1. All amounts, not specifically excluded in paragraph
 - a) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
 - b) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD..

EXHIBIT 7-2: Annual Income Exclusions

EFFECTIVE DATE NOTE: At 88 FR 9657, Feb. 14, 2023, §5.609 was revised, effective Jan. 1, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 5.609 Annual income.

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under §5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a

family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§5.403 and 5.603, respectively.

(9)(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

(1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

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

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not

excluded pursuant to paragraph (b)(9)(i) of this section);

(3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph

(b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)(i) 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);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service

stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a parttime basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) 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.

(14) Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in §5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in §5.611.

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

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed

care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the FEDERAL REGISTER to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on

information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies.

Nonrecurring income includes:

- (i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
- (ii) Direct Federal or State payments intended for economic stimulus or recovery.
- (iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
- (iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
- (v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- (vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- (vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

- (i) 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; and
 - (ii) 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.
- replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies.

Nonrecurring income includes:

- (i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
- (ii) Direct Federal or State payments intended for economic stimulus or recovery.
- (iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
- (iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
- (v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- (vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- (vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments,

including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be

considered income to a family member:

- (i) 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; and
- (ii) 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.

EXHIBIT 7-3: Treatment of Family Assets CFR 5.603(b) Net Family Assets

Net family assets.

- (1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.
- (2) In determining net family assets, PHAs or owners, as applicable, must 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 therefor. 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 consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.
- (3) Excluded from the calculation of net family assets are:
 - (i) The value of necessary items of personal property;
 - (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers);
 - (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals;
 - (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located;
 - (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability;
 - (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government.
 - (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982;
 - (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982;
 - (x) Family Self-Sufficiency Accounts; and
 - (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
- (4) 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 trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

EXHIBIT 7-4: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

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

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

- (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
- (iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

- (1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.
- (2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.
- (3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).
- (4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not in assisted tenant at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies

the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

EXHIBIT 7-5: Federally Mandated Income Exclusions

Federal Register / Vol. 89, No. 21 / Wednesday, January 31, 2024

Updated List of Federally Mandated Exclusions From Income The following updated list of Federally mandated income exclusions supersedes the notice published in the Federal Register on May 20, 2014. The exclusions listed below apply to income only, except where HUD states that the exclusion also applies to assets. Actual income earned from an excluded asset may be included in income if it is not deposited into an account that is disregarded and excluded under one of the below authorities. If an amount is in an excluded account, like an Independent Development Account or an ABLE account, then the statute or the regulations associated with that income/ asset exclusion will dictate what portion of the income earned off the amount, if any, is to be included in the family's income. Please note that exclusions (13) and (23) have provisions that apply only to specific HUD programs):

- (1) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b)). This exclusion also applies to assets;
- (2) Payments, including for supportive services and reimbursement of out-of-pocket expenses, for volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 42 U.S.C. 5058), are excluded from income except that the exclusion shall not apply in the case of such payments when the Chief Executive Officer of the Corporation for National and Community Service appointed under 42 U.S.C. 12651c determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)). This exclusion also applies to assets;
- (3) Certain payments received under the Alaska

- Native Claims Settlement Act (43 U.S.C. 1626(c)). This exclusion also applies to assets;
- (4) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506). This exclusion also applies to assets;
- (5) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1)). This exclusion also applies to assets;
- (6) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6). This exclusion also applies to assets;
- (7) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands. This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407-1408). This exclusion also applies to assets;
- (8) Amounts of student financial assistance funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as

amended)

(9) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);

(10) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101–201) or any other fund established pursuant to the settlement in *In Re Agent Orange Product Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets;

(11) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420 section 9(c)). This exclusion also applies to assets;

(12) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

(13) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l)). This exclusion also applies to assets;

(14) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409);

(15) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95–433 section 2). This exclusion also applies to assets;

(16) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

(17) Any allowance paid to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802–05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811–

16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821–22) is excluded from income and assets (38 U.S.C. 1833(c)).

(18) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)). This exclusion also applies to assets;

(19) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2));

(20) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC). This exclusion also applies to assets;

(21) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (Pub. L. 101–503 section 8(b)). This exclusion also applies to assets;

(22) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. 1437a(b)(4));

(23) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. chapter 11 or dependency and indemnity compensation under 38 U.S.C. chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under

the Native American Housing Assistance and Self Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.);

(24) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291 section 101(f)(2)). This exclusion also applies to assets;

(25) Any amounts in an “individual development account” are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4));

(26) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013– 1 and 2013–55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the

members of the Tribe receiving the per capita payments as described in IRS Notice 2013–1. The first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407);

(27) Federal assistance for a major disaster or emergency received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93– 288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)). This exclusion also applies to assets;

(28) Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09/H 2019–06 or subsequent or superseding notice is excluded from income and assets; and

(29) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021

Chapter 8

Adjusted Income

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.

24 CFR 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) \$525 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds 10% 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 education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in *Chapter 10, Verifications*.

A. Anticipating Expenses

Generally, the PHA will use current circumstances to anticipate expenses for deductions. 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 PHA 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 PHA 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 PHA may require the family to provide documentation of payments made in the preceding year.

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)].

C. Elderly or Disable Family Deduction

A single deduction of \$525 is taken for any elderly or disabled family [24 CFP 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. A *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

D. Health and Medical Expense Deduction [24 CFR 5.611(a)(3)(i)-(ii)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed 10% of annual income.

If a household is eligible for the elderly or disabled families deduction and has lived at the housing authority for one year, then they are eligible for the health and medical expense deduction. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

1. 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.”

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 dentures)
Prescription medicines and insulin, but not 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)

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.

2. Families That Qualify for Both Medical and Disability Assistance Expenses

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 PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

E. Disability Expense 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 10% of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

1. 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 a 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.

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 PHA 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 PHA 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).

2. 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.

i) Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. 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 trained to assist persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

ii) Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care [23 CFR 5.603(b)].

iii) Payments to Family Members

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are not reimbursed by an outside source.

3. Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

Then the PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA will consider, the family's justification for costs that exceed

typical costs in the area.

4. Families That Qualify for Both Medical and Disability Assistance Expenses

Families in which the head, spouse, or co-head is 62 or older or is a person with disabilities may have expenses that could be defined as either medical or disability assistance expenses, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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 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. 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.

1. Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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 PHA 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

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 PHA.

Furthering Education

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

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.

2. Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her 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 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.

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, PHA generally will limit allowable childcare 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.

3. Eligible Child Care Expenses

The type of care to be provided is determined by the tenant. 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.

i. Allowable Child Care Activities

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 PHA 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.

ii. **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 education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Chapter 9

Rent

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then 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 will be paid to the utility company by the PHA.

A. 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% of a family's monthly adjusted income (adjusted income defined in *Chapter 8*)
- 10% of the family's monthly gross income (annual income, as defined in *Chapter 7*, divided by 12)
- The welfare rent (does not apply to our PHA)
- A minimum rent \$50 that is established by the PHA

1. Minimum Rent [24 CFR 5.630]

The PHA has set the minimum rent at \$50.00. A tenant can request a hardship exemption and the PHA will suspend the minimum rent the tenant family would pay until the PHA can evaluate the situation and decide if the hardship exists, as defined in *Section B.*, of this chapter.

2. Utility Reimbursement

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. The PHA will send the reimbursement directly to the utility provider on a monthly basis.

B. Financial Hardships Affecting Minimum Rent [24 CFR 5.630]

The PHA has a minimum rent of \$50.00 per month, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

1. HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- i. The family has lost or awaiting an eligibility determination for a federal, state, or local assistance program. 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.

- ii. 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.
- iii. The family would be evicted because it is unable to pay the minimum rent. 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.
- iv. Family income has decreased because of changed family circumstances, including the loss of employment.
- v. A death has occurred in the family. 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).
- vi. The family has experienced other circumstances determined by the PHA.

2. Determination of Hardship/Zero Income Eligibility

When a family requests a hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

A request for a hardship exemption should be submitted in writing by the family (see **Exhibit 9-1** request form). 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 PHA will then make a determination within 30 days and if a hardship exists and whether the hardship is temporary or long-term.

Example: Impact of Minimum Rent Exemption			
This is based on the PHA's established minimum rent of \$50			
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
\$50	Minimum rent	\$50	Minimum rent
Minimum rent applies TTP = \$50		Hardship exemption granted TTP = \$15	

The PHA 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 days 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.

i. No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see *Chapter 20 - Grievances and Appeals*.

The PHA will require the family to repay the suspended amount within 30 days of the PHA's notice that a hardship exemption has not been granted.

ii. Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and repay the PHA the amounts suspended. The PHA will offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see *Chapter 20 - Grievances and Appeals*.

iii. 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.

The hardship period ends when any of the following circumstances apply:

- a) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- b) 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.

- c) 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.

C. Flat Rents and Family Choice in Rents [24 CFR 960.253]

1. 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.

2. Family Choice in Rents [24 CFR 960.253(a) and (e)]

The PHA will offer each family the choice between flat or income-based rent at admission, then again at each annual reexamination. The family may not be offered this choice more than once a year. The PHA will document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

The PHA 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 and annual reexamination process.

The PHA will provide sufficient information for families to make an informed choice. Information will include PHA 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 flat rent for the previous year the PHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

3. Switching from Flat Rent to Income-Based Rent Due to Hardship

If the PHA determines that a financial hardship exists, the PHA 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 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 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

The PHA 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].

4. Change in Flat Rents

Changes to flat rents, up or down, will not affect families paying flat rent until their next annual flat rent offer, at which time the family will be given the choice of switching back to income-based rent or of remaining on flat rent at the current (most recently adjusted) flat rent for their unit [Public Housing Occupancy Guide Book, pp. 137-138].

5. Phasing in Flat Rents [Notice PIH 2014-12]

When implementing new flat rents, HUD limits the increase for existing tenants paying flat rent to no more than 35% of the current tenant rent per year. In some cases, tenants will have their flat rents phased-in at the time of their annual recertification. To do this, the PHA will 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.

Example: A family is paying a flat rent of \$500 per month. At their annual recertification, the PHA increased the flat rent for their unit size to comply with 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%, 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, the PHA will again multiply the family's current flat rent by 1.35 and compare the results to the PHA's current flat rent.

EXHIBIT 9-1: Hardship Exemption Request

HARDSHIP EXEMPTION REQUEST

Tenant Name: _____

Address: _____

Date of Request _____ Date of Income Change _____

Financial Hardship is requested because of the following, (check one):

- ___1. Family lost or is awaiting eligibility for government assistance (except where benefits are reduced due to fraud or family failed to comply with work or economic, self- sufficiency requirements).
- ___2. Family income decreased due to changes in circumstances including loss of employment, death in family, or other unanticipated circumstance.
- ___3. Other circumstances the family deems different that affects their ability to pay the minimum rent.

The Housing Authority will review your request for a Hardship Exemption. The minimum rent will be suspended until a determination of the Hardship is made. If the Hardship is determined to be temporary (90 days or less) the minimum rent is imposed but the family cannot be evicted for non-payment during the 90 day period commencing on the date of the family's request for exemption of minimum rent in excess of the tenant charges otherwise payable. A reasonable repayment agreement must be offered for any such rent not paid during that period. If the family demonstrates that the financial hardship is of long-term duration, the PHA shall retroactively exempt the family from the minimum rent requirement.

While the minimum rental amount is suspended, the utility allowance amount will be applied to your security deposit payment (if there is still a balance) or be mailed to Evergy or Kansas Gas Service to be applied towards your utility charges.

Tenant _____ Date _____

Chapter 10

Verification

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2010-19]

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and required to obtain written authorization from the family in order to collect the information. Applicants and tenants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on verification costs to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH 2017-12 and any subsequent guidance issued by HUD.

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.

A. Family Consent to Release of Information [24 CFR 960.259, 24 CFR 5.230]

Families must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to verification of that information.

1. Consent Forms [24 CFR 5.232(c)]

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. In 2024 HUD updated form HUD-9886 so that it only needs to be signed once during occupancy.

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 family's eligibility and level of assistance.

2. Penalties for Failing to Consent [24 CFR 5.232]

If an adult refuses to sign or revokes HUD-9886 then they will be denied admission to Pleasanton Housing Authority (PHA) and/or their lease will be terminated. [24 CFR 5.232(c)]

The family may request a hearing in accordance with the PHA's grievance procedures.

B. Overview of Verification Requirements

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.

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.

1. HUD's Verification Hierarchy [Notice PIH 2017-12]

In order of priority, the forms of verification that the PHA 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 tenant)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

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

i. Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and generally must be dated within 30 days of the PHA request.

- The documents must not be damaged, altered or in any way illegible.
- Print-outs from web pages are considered original documents.
- PHA staff will view the original document then make a photocopy.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed in the presence of a PHA representative or notary public.

ii. File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2017-12].

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.

There may be legitimate differences between the information provided by the family and UIV generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes. *(For more on UIV and income projection, see Chapter 7, Section C.)*

1. Up-front Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

The PHA 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.

All applicants are provided with the brochure, *"EIV and You"*, when they request an application for the public housing program.

i. EIV Income Reports

The PHA will obtain income reports for annual reexaminations, reports will be generated as part of the regular reexamination process.

Income 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 7, Section C*.

Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in *Chapter 7, Section C*, and in this chapter.

Income 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 reports will be retained in tenant files with the applicable annual or interim reexamination documents. When the PHA determines through income 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 21, Program Integrity*.

ii. EIV Identity Verification

The EIV system verifies tenant 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.

The PHA is required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10].

When identity verification for a tenant fails, a message will be displayed within the EIV system and no income information will be displayed. The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When the PHA determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

2. Up-front Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, the PHA will utilize other up-front verification sources. The PHA will inform all applicants and tenants of its use of the other UIV resources during the admission and reexamination process.

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.

1. Written Third-Party Verification [Notice PIH 2017-12]

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 is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Third-party documents provided by the family must be dated within 30 days of the PHA request date. If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional

documentation.

2. Written Third-Party Verification Form

When up-front 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.

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

3. Oral Third-Party Verification [Notice PIH 2017-12]

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., 10 business days).

The PHA will 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.

4. When Third-Party Verification is Not Required [Notice PIH 2017-12]

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.

If the family cannot provide original documents, the PHA 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.

i. 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.

ii. Value of Assets and Asset Income

If the net family assets is under \$50,000 (HUD adjusted yearly by CPI-W to reflect inflation) the housing authority will accept the self-certification form. However every three years PHA will have to verify these assets. The self-certification needs to include any expected income from the assets and actual returns, this amount will be included in the family income.

E. Self-Certification

When the PHA is 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.

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 PHA. The PHA 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 PHA 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 PHA representative or PHA notary public.

F. Verification of Legal Identity

The PHA will require families to furnish verification of legal identity for each household member. If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

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 to be a tenant or a member of a tenant family.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) Current U.S. passport Student identification card (with picture) Current government employer identification card (with picture) Valid picture identification card issued by USCIS	Certificate of birth Adoption papers Custody agreement Certified school records

G. Social Security Numbers [24 CFR 5.216 and Notice PIH 2012-10]

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.

1. SSN Documentation

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 tenant 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.

The PHA will explain to the applicant or tenant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

The PHA will grant a 90-day extension if needed for reasons beyond the tenant'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.

2. Verification of SSN

The PHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and tenants 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 applicant/tenant file.

H. 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.

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

I. 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 (*Chapter 3*).

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.

1. Marriage

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document

the marriage.

A marriage certificate generally is required to verify that a 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).

2. Separation or Divorce

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, or if the PHA determines a need to verify the receipt of child support or alimony, the PHA will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation. If no court document is available, documentation from a community-based agency will be accepted.

3. Absence of Adult Member

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 PHA so requests.

4. Foster Children and Foster Adults

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

J. Verification of Student Status

The PHA requires families to provide information about the student status of all students who are 18 years old 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 education.
- The family claims a dependent deduction for a child attending school.

K. 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 tenant'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:

- 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

1. 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.

For family members claiming disability who receive disability payments from the SSA, the PHA 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 PHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from www.ssa.gov. Once the family receives the benefit verification letter, it will be required to provide the letter to the PHA.

2. Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See *Chapter 3 – Eligibility*, for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

L. Citizenship or Eligible Immigration Status [24 CFR 5.508]

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See *Chapter 3* for detailed discussion of eligibility requirements. This chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)]

1. U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 years old or older and by a guardian for minors.

The PHA will request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

2. Eligible Immigrants

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

i) Documents Required

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. **Exhibit 10-1** at the end of this chapter summarizes documents family members must provide.

ii) PHA Verification

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in *Chapter 10, H.*, of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS). The PHA will follow all USCIS protocols for verification of eligible immigration status.

M. Verification of Preference Status

The PHA must verify any preferences claimed by an applicant. The PHA offers a preference for elderly/disabled and working families, as described in *Chapter 6, Section A*.

The PHA will verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that they are working.

EXHIBIT 10-1: Documentation Requirements for Noncitizens

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- | | |
|--|--|
| <ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent tenant aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> • “Admitted as a Refugee Pursuant to Section 207” • “Section 208” or “Asylum” • “Section 243(h)” or “Deportation stayed by Attorney General” • “Paroled Pursuant to Section 221 (d)(5) of the USCIS” | <ul style="list-style-type: none"> • Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> • A final court decision granting asylum (but only if no appeal is taken); • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); • A court decision granting withholding of deportation; or • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90). |
|--|--|

- | | |
|--|--|
| <ul style="list-style-type: none"> • Form I-688 Temporary Tenant Card annotated “Section 245A” or Section 210”. | <ul style="list-style-type: none"> • Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”. |
|--|--|

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 11

Verifying Income and Assets

Chapter 7, of this ACOP describes the types of income that are included, excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This chapter provides PHA policies that supplement the general verification procedures specified in *Chapter 10*.

A. Earned Income

Verification forms are sent to employers to specify dates of employment; amount and frequency of pay; date of last pay increase; likelihood of change of employment status and effective date of any known salary increase during the next 12 months; year to date earnings; and estimated income from overtime, tips, and bonus pay expected during next 12 months.

Acceptable methods of verification include:

- Employment verification form completed by the employer
- Current check stubs or earning statements that indicate the employee's gross pay, frequency of pay or year to date earnings.
- W-2 forms plus income tax return forms.
- Self-certification signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

B. Business or Self-Employment Income

In order to verify the net income from a business, the PHA will review income tax returns and financial documents from prior years and use this information to anticipate income for the next 12 months.

The PHA may also request documents such as appointment books, cashbooks, bank statements, and receipts to use as a guide to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.

A family's self-certification/notarized statement as to net income from a business during previous years may be accepted at the PHA's discretion if no other documentation is available.

C. Social Security, Pensions, SSI, Disability Income

Acceptable methods of verification include:

- Verification through the HUD EIV system
- Benefit verification form completed by agency providing the benefits.
- Computer report electronically obtained or in hard copy.
- Award or benefit notification letters prepared and signed by the providing agency.
- Bank statements for direct deposits

D. Unemployment Compensation

Acceptable methods of verification include:

- A computer report electronically obtained or in hard copy, stating payment dates and amounts
- Verification form completed by the unemployment compensation agency.
- Payment Stubs from unemployment checks

E. Welfare Payments or General Assistance

Acceptable methods of verification include:

- Verification form completed by payment provider.
- Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
- Computer-generated Notice of Action.
- Computer-generated list of recipients from Welfare Department

F. Alimony or Child Support Payments

The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that payments are not being made. The PHA will generally verify the amount of alimony or child support that was received by the family over the prior 12 months and use this amount as the anticipated income over the 12 month period following admission or reexamination. The family may present documentation demonstrating why this amount does not accurately represent the anticipated amount of income the family will receive, and the PHA will consider the justification.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection. The PHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

Acceptable methods of verification include:

- Third-party verification from the person paying the support
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received. (The PHA generally uses a 3 month period if the tenant reports a change in this type of support before considering an interim re-exam to change rent accordingly).

G. Assets Disposed of For Less Than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation.

The PHA will verify the value of assets disposed of only if:

- The PHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 CD at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset

When verifying the value, the PHA will use documents that reflect the value at the time the property was disposed of.

H. Retirement Accounts

The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, the PHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.
- *Upon* retirement, the PHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump-sums taken and any regular payments.
- *After* retirement, the PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump-sums taken and any regular payments.

J. Income From Excluded Sources

A detailed discussion of excluded income is provided in *Chapter 7, Sections E., and N.*

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is not required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. However, the PHA does choose to verify excluded income and document it accordingly. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds)

[Notice PIH 2013-04].

For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

K. Zero Annual Income Status

Applicants and tenants claiming to have zero income will be required to complete a “Zero Income” form for the PHA as no one can live on zero income. They will be asked how they pay for food, household items, laundry, cell phones, utilities, etc.

The PHA will then review the form with the family to determine if someone outside of the family is helping on a regular basis and what the value of the help is.

The PHA will to obtain third-party verification from agencies or individuals outside of the family who are providing support on a regular basis.

Regular financial support from a source outside of the family basis will be considered as income for rent calculation purposes.

L. Verification also required

Documents will be required to verify the following items:

- Required Live-In Aide
- Cost of Child Care
- Expenses for Disability Assistance
- Bank Accounts (Savings and Checking)
- Stocks, Bonds, and CDs
- Ownership of Real Estate
- Personal Property
- Participation in Training Program
- Gifts and Contributions on your behalf

Chapter 12

Verifying Mandatory Deductions

A. Dependent and Elderly/Disabled Household Deductions

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

1. Dependent Deduction

See *Chapter 8, Section B.*, for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

2. Elderly/Disabled Family Deduction

See the *Chapter 3 on Eligibility* for a definition of elderly and disabled families and *Chapter 8, Section C.*, for a discussion of the deduction. The PHA will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

B. Medical Expense Deduction

Policies related to medical expenses are found in *Chapter 8, Section D.* The amount of the deduction will be verified following the standard verification procedures described in *Chapter 10.*

1. Amount of Expense

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

2. Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in *Chapter 3 on Eligibility*.

To be eligible for the medical expenses deduction, the cost must qualify as medical expenses. See *Chapter 8, Section D.*, for the PHA's policy on what counts as a medical expense.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

3. Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA 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.

C. Disability Assistance Expenses

Policies related to disability assistance expenses are found in *Chapter 8, Section E*. The amount of the deduction will be verified following the standard verification procedures as described in *Chapter 10*.

The PHA must verify that:

- The member for whom the expense is incurred is a person with disabilities
- The expense permits a family member, or members to work
- The expense is not reimbursed from another source.

1. Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities.

2. Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

D. Child Care Expenses

Policies related to child care expenses are found in *Chapter 8, Section F*. The amount of the deduction will be verified following the standard verification procedures described in *Chapter 10*. In addition, the PHA must verify that:

- The child is eligible for care (under the age of 13).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

1. 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.

2. Unreimbursed Expense

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

3. 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.

i) Information to be Gathered

The PHA 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.

ii) Seeking Work

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

In the event third-party verification is not available, the PHA will request the family to provide proof of the family member's job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

iii) Furthering Education

The PHA will request third-party documentation to verify that the person permitted to further his or her 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.

iv) Gainful Employment

The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

4. Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines. The PHA will verify that the type of child care selected by the family is allowable, as described in *Chapter 8, Section F*.

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members). The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

The PHA will also verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Chapter 13

Leasing and Inspections

A. Leasing

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.

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 comply with applicable state and local laws and codes.

The term of the PHA lease is for a 12 month period. The lease is renewed annually, as long as the family has not violated the community service requirement [24 CFR 966.4(a)(2)].

B. Lease Orientation

After unit acceptance but prior to occupancy, a PHA representative will conduct a lease orientation, in which all adult family members are required to attend.

At orientation the family will receive a copy of the lease, schedule of maintenance charges, smoke free policy (**Exhibit 13-1**) and other policies and rules set forth by the PHA.

The PHA representative will explain the deposit, other charges, lease provisions, work orders for maintenance repairs, interim reporting requirements, occupancy guidelines, community service requirements, family choice of rent, VAWA protections, Smoke-free policies and any other questions that the family may have. The tenant will be advised of the “Tenant Information” area, where they can find rules, regulations, policies and contact information for questions, concerns, discrimination and/or complaints.

C. Execution of Lease

At the time of initial admission, the lease will be executed by the new tenant and the PHA. The lease will state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)].

The head of household and all other adult members of the household are required to sign the public housing lease prior to admission. After execution of the lease the family and a member of PHA staff will do a walk-through/move in inspection of the unit. The head of household will be provided a copy of the executed lease and the PHA will retain a copy in the tenant’s file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to PHA assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

D. Modifications to the Lease

The lease may be modified at any time by written agreement of the tenant and the PHA [24 CFR 966.4(a)(3)]. If the PHA needs to modify the lease for any reason it will give tenants at least a 30-day advance notice of the proposed changes and an opportunity to comment in writing on the changes. The PHA will consider comments received and present them to the Board of Commissioner. After proposed changes have been incorporated into the lease and approved by the Board, each family will be notified at least 30 days in advance of the effective date of the lease revision.

A tenant's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, tenants must be provided at least 30 days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice will be place in the newsletter or delivered directly to each tenant, as well as posted on the "Tenant Information" board at the office. Comments will be taken into consideration before any proposed modifications or revisions become effective.

After the proposed revisions become effective they will be publicly posted on the "Tenant Information" board at the project office, published in the housing newsletter and will be furnished to applicants and tenants on request [24 CFR 966.5].

When the PHA proposes to modify or revise schedules of special charges or rules and regulations, the PHA will post a copy of the notice at the project office, and will be place in the newsletter or delivered directly to each tenant. Documentation of proper notice will be included in each tenant file.

E. Other Modifications

At any time there is a change in family composition, a new lease executed reflecting the change. All adult family members and PHA will be required to sign the new lease. Policies governing when and how changes in family composition must be reported are contained in *Chapter 14, Reexaminations*.

F. Security Deposits [24 CFR 966.4(b)(5)]

Tenants are required to pay a security deposit to the PHA at the time of initial lease. The security deposit may be paid in full prior to occupancy or be paid in installments over the first 3 months of occupancy.

The security deposit is established at the time of admission. Security deposits are based on TTP and annual household income.

The PHA will hold the security deposit for the period the family occupies the unit. The PHA will not use the security deposit for rent or other charges while the tenant is living in the unit.

If a tenant transfers to a smaller unit, the initial deposit paid will cover the smaller sized unit. If tenant transfers to a larger unit they will be required to pay an additional amount to meet the full deposit amount for the larger sized unit. (Any charges due at the "old" unit will be billed to the tenant and are due to be paid within 14 days after the transfer).

Within 30 days of move-out, the PHA will refund to the tenant the amount of the security deposit that was paid, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection form that exceeds normal wear and tear, and other charges due under the lease. A written statement will be provided to inform the tenant of charges applied against the deposit.

The PHA strongly urges the head of household be present during the move-out inspection (or appoint someone on their behalf). If the tenant disagrees with the amount charged, the PHA will provide a meeting to discuss the charges.

G. Rent Payments

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 will specify the initial amount of the tenant rent at the beginning of the initial lease term. A Rent Choice and Rent Payment Schedule will be signed by head of household and the Director.

Tenant rent is due and payable, by cash, money order, cashier's check, or personal check at the PHA office on the first thru fifth of every month, unless another rent payment schedule is signed.

When there are changes in a tenant's rental amount, the PHA will notify the family of the new amount at least 30 days prior to the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Rent can be paid in person, mailed in or placed in the overnight payment box at the PHA office, 902 Palm St.

1. Late Fees and Nonpayment

If rent payments and other charges due are not paid by the date set on the resident's rent payment schedule, a charge of \$5.00 per day, beginning the next day, (max of \$25.00) shall be due, unless Management has issued an authorization for late payment. If rent is not paid on specified payment schedule \$5.00 per day will be assessed from the 5th of the month.

Rent is to be paid in accordance with the resident's signed Rent Payment Schedule. If they do not pay their rent in accordance with the schedule and do not contact the office to request an extension, then the resident will be issued a 14/30 notice to pay.

The 14/30 notice will state that you have 14 days to pay your rent or 30 days to vacate. IF the resident does not vacate after 30 days then PHA will begin eviction for non-payment of rent proceedings with the courts.

If the resident is late in payment of rent and the \$5.00 per day has been assessed two (2) times within a twelve (12) month period, a third (3) such late payment within that twelve (12) month period shall be considered a serious Lease violation and can be grounds for termination of this Lease. If the tenant can document financial hardship, the late fee may be waived on a case-by-case basis.

If a tenant's payment by personal check is returned to the PHA for any reason other than a bank error, the PHA will consider the rent to be unpaid. The PHA will charge a \$15 returned check fee and a late charge, as rent is considered to be unpaid. The PHA will issued a 14-day Notice to Vacate and the tenant will have 14 days to pay rent by cash, money order or a cashier's check.

A tenant who has a personal check returned will not be allowed pay rent by check in the future, they will need to pay by cash, money order or cashier's check.

Any rent payment received will be applied to the oldest rent charges first on the tenant's account with the exception of debts currently under a payment agreement.

Resident shall pay all rent and other charges at the Management Office at 902 Palm. A drop box has been provided on the southeast side of the building (to the right of the front door) for after hour payment.

Do not put cash payment in drop box unless it is in an envelope clearly marked with your name and unit number. Cashier checks, money orders, and personal checks can be placed in drop box.

2. Rent Payment Schedule

A payment schedule will be set up between Management and Head of Household for rent payment. This schedule will state the date or date range in which a family is to pay their rent. All payment schedules must not be made past the 3rd Friday of the month. If the schedule is broken by the tenant and they have failed to contact the office prior, or does not pay rent at accepted date arranged between the HA and tenant, rent will automatically return to rent payments between 1st and 5th of the month. A 14-day notice of Lease Termination will be sent after the 5th of the month.

3. Maintenance and Damage Charges

When applicable, families will be charged for maintenance and/or damages according to the PHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Charges assessed up to the 20th day of the month for maintenance and repairs shall become due and collectible on the first day of the following month. Any charges that were incurred after the after the 20th day but before the end of the month will be due and

collectible on the first day of the second month following the month in which the charges were incurred.

If payment in full would cause an financial re, the resident can contact to the office to request a payment plan.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

H. Inspections

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 according to PHA policy.

1. Move-In Inspections

A joint inspection by PHA management and the tenant (or tenant's representative) must be made prior to the commencement of occupancy. Results will be recorded on a move-in inspection form, which will list the condition of the dwelling unit, installed equipment and grounds. The form will be signed by PHA management and the tenant. The original copy will be maintained in the tenant's file and a copy will be given to the tenant upon request.

2. Move-Out Inspections

The PHA will conduct a move-out inspection when a tenant vacates a unit. While it is not mandatory for the tenant to participate in the move-out inspection, the PHA strongly encourages it. The PHA must provide to the tenant a statement of any charges for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

3. Annual Inspections

Section 6(f)(3) of the United States Housing Act of 1937 requires that PHAs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. The PHA shall use NSPIRE guidelines, Physical Condition Standards and Inspection Requirements, to conduct annual project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.

Annual inspections require access to under the unit. Required notice is given to tenants to remove personal items from closet to give access. Failure to make accessible is a lease violation.

When the PHA conducts Annual Inspections using HUD's NSPIRE:

- A unit will be considered to have failed if there are any life-threatening Health and Safety deficiencies.

- If a unit fails inspection due to housekeeping or tenant caused damages, the tenant will be given 14 days to correct the noted items, after which a follow-up inspection will be conducted.
- Tenants may request a copy of the inspection report with required corrections.
- The PHA will create a work order for needed repairs to bring the unit in to NSPIRE compliance.
- All inspections will include a check of all smoke alarms and carbon monoxide detectors to ensure proper working order.
- Damages beyond “normal wear and tear” will be billed to the tenant
- Tenants who repeatedly “fail” inspections or cause excessive damage to the unit will be in violation of their lease.

4. Quality Control Inspection

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

5. Special Inspections

The PHA may notify and conduct special inspections for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- Reasonable cause to believe an emergency exists

If unit is found to have Housekeeping Standards non-compliances, including health and safety standards, the unit will be set up on scheduled housekeeping inspections weekly or bi-weekly for a year or for a term that is deemed necessary.

Verification of findings will be documented with pictures and a list of findings. As long as the tenant is cooperating, the HA will continue to work with the tenant. If the tenant does not comply, a 30 Day Notice of Lease Termination will be issued

6. Other Inspections

The PHA will conduct inspections from time to time of building exteriors, grounds, common areas, tenant porches and yards according to the PHA’s maintenance plan.

Housekeeping inspections will be conducted during:

- Pest Control

- Furnace Filter Changes
- Work orders
- Planned maintenance

I. Notice and Scheduling of Inspections

The PHA is required to give notice to the tenant prior to entering the dwelling unit, unless the PHA believes that an emergency exists. The following will discuss the notice requirements between the PHA and the tenant prior to entry in a unit.

1. Non-emergency Entry

The PHA will notify the tenant in writing at least 2 days prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least a one week written notice of the inspection to allow the family to prepare the unit for inspection. This notice will be placed in the Newsletter.

Entry for repairs requested by the family will not require prior notice. Tenant requested repairs presume permission for the PHA to enter the unit.

2. Emergency Entry

The PHA may enter a unit 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 will leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

3. Scheduling of Inspections

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the PHA at least 24 hours prior to the scheduled inspection.

The PHA will reschedule the inspection no more than once unless the tenant has a verifiable good cause to delay the inspection. The PHA may request verification of such cause.

4. Attendance at Inspections

Tenants are required to be present for the move-in inspection.

Tenants are not required to be present for the move-out inspection, however the PHA strongly encourages the tenant be present if at all possible.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a door tag documenting that the inspection has been completed. The inspector will always lock the door when they leave the unit, even if the door was unlocked upon their arrival.

J. Inspection Results

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

inspection the PHA finds a unit to need repairs, the inspector will note what repairs are needed and use the following methods to prioritize the work needed.

1. Emergency Repairs

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 will offer the family standard alternative accommodations when available.

When conditions in the unit are hazardous to life, health, or safety, the PHA 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 water leaks, flooding, waterlogged ceiling/floor in 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

2. Non-emergency Repairs

The PHA will correct non-life threatening health and safety defects within 30 business days of the inspection date. If the PHA is unable to make repairs within that period due to circumstances beyond the PHA's control (e.g. required parts or services are not available, weather conditions, etc.) the PHA will notify the family of an estimated date of completion.

The family must allow the PHA access to the unit to make repairs.

3. Tenant-Caused Damages

Tenants whose housekeeping habits pose a non-emergency health and safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the PHA will provide proper notice of a lease violation.

A re-inspection will be conducted within 14 days to confirm that the tenant has complied with the requirement to abate the problem. Failure to abate the problem or not allow a re-

inspection is considered a violation of the lease and may result in termination of tenancy.

Notices of lease violation will also be issued to tenants who purposely disengage the unit's smoke detector. Only one warning will be given and a possible fine assessed. A second incidence will result in a non-remediable lease termination.

K. Tenant Paid Utilities

Tenants pay the cost of utilities directly to the utility company. Tenant's rents are reduced by an Allowance for Utilities that is developed by the PHA in consultation with the utility supplier and approved by HUD.

The following requirements apply to tenants living in units with tenant-paid utilities:

1. Head of Household Must be Consumer

The Head of Household must maintain utility services in their name at all times throughout the lease. At lease orientation the tenant will need to provide the PHA with the accounts numbers for the tenant paid utilities at the unit. The lease cannot be executed until the account numbers are provided as proof that utilities are in the tenant's name.

2. Payment Requirements – Utilities

Paying the utility bill is the tenant's obligation under the PHA lease. A 14-day Notice of Termination of Lease will be sent to any tenant that receives a cut off notice for Non-Payment.

EXHIBIT 13-1: SMOKE-FREE POLICY

Smoke-Free Policy

Rewritten to include Monitoring and Enforcement: 6.14.2023

Resolution No: 639

Overview

In 2017 the US Department of Housing and Urban Development ruled that all Housing Authorities were to implement No Smoking Policies. The requirement stipulates that there will be no smoking with-in 25 feet of all public Housing Authority buildings. The 25 foot buffer is required for all, including those with physical mobility or mental disabilities.

This ruling was mostly due to the increased risk of fires, maintenance costs and the health effects of second hand smoke.

Disclaimer

Smoking is NOT protected under discrimination/504 provisions. Reasonable accommodation requests would be a fundamental alternation to the government ruling.

Policy

The Pleasanton Housing Authority has adopted the following No-Smoking Policy as of October 1, 2017. The PHA prohibits smoking in all units and with-in 25 feet of all Housing Authority buildings.

All tenants, guests, visitors, service personnel, and employees of Pleasanton Housing Authority are prohibited from smoking in any unit and must be 25 feet from all buildings managed by the Pleasanton Housing Authority.

- This policy Prohibits the use of cigarettes, cigars, pipes, and water pipes in all living units, indoor common areas, and administrative offices, as well as all outdoor areas within 25 ft from all buildings.
- This policy does not include e-cigarettes as a prohibited product at this time.
- All tobacco products must be disposed of properly outside the 25 feet range
- December 2019, Congress raised the legal use of tobacco age to 21 nationwide.
- All residents 18 years of age or older are required to sign a no smoking policy at lease execution and at all Re-Examinations.

Monitoring and Enforcement

The PHA will monitor the property on a regular basis to ensure compliance of the smoke-free policy. Complaints will be investigated, which may include talking to neighbors and/or following-up on previously reported violations. Tenants residing in public housing may be subject to lease termination if they choose not to comply with the smoke-free lease addendum or allow their guest/visitors to violate the policy. Any persons not residing in public housing will be asked to leave the property for non-compliance of the smoke-free policy.

Steps to enforce smoke-free policy:

- 1st offense – Verbal warning and documentation placed in office file
- 2nd offense - Written warning and documentation placed in office file
- 3rd offense - Final notice to correct and documentation place in office file
- 4th offense – Lease termination

Copy of this policy will be given to the tenant and a signed copy will be placed in there file.

I have read and understand the above Smoking Policy and I agree to comply fully with the provisions. I understand that failure to comply may constitute reason for termination of my lease as a lease violation.

Tenant Signature: _____

Print Name: _____

Tenant Signature: _____

Print Name: _____

Tenant Signature: _____

Print Name: _____

Tenant Signature: _____

Print Name: _____

Unit No: _____ Address: _____ Date: _____

Chapter 14

Re-Examinations

PHA's are required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. The PHA will conduct annual and interim reexaminations that are consistent with regulatory requirements [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine income for a family depends on whether the family pays income-based or flat rent. The PHA is required to offer all families the choice of paying income-based rent or flat rent. The PHA's policies for offering families a choice of rents are located in *Chapter 9*.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, also apply to annual and interim reexaminations.

A. Scheduling Annual Re-Examinations

The PHA's annual reexaminations will coincide with the family's anniversary date. The PHA will begin the annual reexamination process approximately 90 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).

(Families that choose to pay flat rent will only be required to have a reexamination conducted once every 3 years instead of every year if they so choose.)

1. Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain information needed to conduct annual reexaminations. Reexamination can be in person interviews or by mail. Families are required to attend the PHA annual reexamination interview if one it completed or requested. Notification of the interview will be sent by first-class mail to the family with 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 PHA in advance of the interview to schedule a new appointment.

If a family fails to attend the scheduled interview without PHA approval, or if the notice is returned by the post office with no forwarding address, the family will be in violation of their lease and may be terminated in accordance with the policies in *Chapter 19*.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the PHA must execute a certification attesting to the role and the assistance provided by any such third-party.

2. Conducting Annual Reexaminations

All adult members 18 years and older of Resident's household must sign all Annual Re-exam required forms. Families will be asked or turn in all required information as requested in the reexamination notice by the date stated in the notice. The required information will be 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 reexam must be provided within 10 days. 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 19*.

The information provided by the family will be verified in accordance with the policies in *Chapter 10*. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, such as legal identity, age, Social Security numbers, a person's disability status, citizenship or immigration status that was verified at admission typically do not need to be re-verified on annual basis.

i. 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 18*.

ii. Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of tenants will be conducted in accordance with the policy in *Chapter 4, Section C*.

At the time of the re-exam the tenant will be required to self-declare criminal history for the past year. Falsifying this information may cause lease termination.

HUD recommends at annual reexaminations, that the PHA ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28]. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant. If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination [24 CFR 5.903(f) and 5.905(d)] (*See Chapter 19*).

iii. Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)]. See *Chapter 17* for the PHA's policies governing compliance with the community service requirement.

B. Effective Dates

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30 day notice period.
- If the PHA 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 PHA, but will always allow for the 30 day notice period.
- If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in *Chapter 22*.

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 PHA 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 PHA.
- 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 PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

C. Interim Re-Examinations [24 CFR 960.257; 24 CFR 966.4]

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim

reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The PHA must complete the interim reexamination within a reasonable time after the family's request.

1. Changes in Family and Household Composition

All families, whether paying income based rent or flat rent, must report all changes in family and household composition that occur between annual reexaminations within 30 days of the change. The family's rent will be calculated based on all changes in income and allowances. Failure to report within 10 days may result in a retroactive rent charge.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards.

i. New Family Members Not Requiring PHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition within 10 days of change.

ii. New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court awarded custody, a family must request PHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in *Chapter 18*), the PHA will approve the addition only on a case-by-case basis.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (*see Chapter 3*) and documentation requirements.

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA 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 PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility, unless further background

checks are required.

iii. Departure of a Family or Household Member

If a family member ceases to reside in the unit, the family must inform the PHA within 10 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 PHA within 10 days of change.

iv. Family or Household Member Status Change

If a family member, including the head-of-household and spouse/co-head, is no longer a full-time student, the family must inform the PHA within 10 days of change.

D. 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 voluntarily, or because it was required to do so.

1. PHA-initiated Interim Reexaminations

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

- If the family has reported zero income, the PHA will conduct an interim reexamination every 6 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 PHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the PHA will conduct an interim reexamination.
- The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

2. Family-Initiated Interim Reexaminations

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

i. Required Reporting

Families are required to report all increases in household income, including new employment, by the 5th working day of the following month after the increase occurs. The PHA will complete an interim reexamination, if necessary, within a reasonable time after the family makes the report.

ii. Families Income Decreases:

1. After the decrease is reported the PHA will determine if the annual family income decreased by 5% or more.
2. If the income decreased by 5% or more then an interim re-examination will be conducted.
3. If the income decrease is not 5% or more then the head of household will be informed that no interim will be conducted.
4. If the decrease is reported according to this policy, then the Interim Rent Decrease will be effective on the 1st day of the month following the completion of the re-examination. [24 CFR 960.257(b)(2), 982.516(c)(2), 882.515(b)(2), 891.410]

iii. Families' Income Increases:

1. If the families' income increases by 10% or more, an interim re-examination will be completed.
2. Earned income will not be considered when determining whether the adjusted annual income has increased unless the family has received an interim rent reduction during the same re-examination cycle.

iv. Method of Reporting

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 days from the date of the PHA notice. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person.

v. Effective Dates

The PHA must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

If the tenant rent is to increase:

A rent increase generally will be effective on the first of the month following a 30 day notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied

retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in *Chapter 21*.

If the tenant rent is to decrease:

The decrease will be effective on the first day of the month following the month in which the change was can be verified. (Example: tenant reports job loss on the last day of the month, the PHA would not have ample time to verify loss and conduct interim. Rent would be due for the next month, then lowered the second month).

3. Recalculating Tenant Rent

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in *Chapter 9*, this part lays out policies that affect these calculations during a reexamination.

i. Changes in Utility Allowances

The tenant rent calculations will reflect any changes in the PHA's utility allowance schedule [24 FR 960.253(c)(3)].

ii. Notification of New Tenant Rent

The public housing lease requires the PHA to give the tenant written notice stating any change in the amount of tenant rent, when the change is effective, and a rent schedule agreement. [24 CFR 966.4(b)(1)(ii)].

When the PHA determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, the PHA will notify the tenant 30 days in advance of the effective date, so that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

E. Discrepancies

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made per the policies in *Chapter 21*.

Chapter 15

Service Animals and Assistance Animals Policy

Notice FHEO-2020-01, known as the Assistance Animals Notice, was published January 28, 2020. The notice clarifies the rights and obligations under The Fair Housing Act (FHA) regarding service and assistance animals. In public housing the PHA must evaluate a request for a service animal under both the Americans with Disabilities Act (ADA) and the FHA.

Individuals with a disability may request to keep an assistance animal as a reasonable accommodation to a housing provider's pet restrictions. Neither service animals nor assistance animals are pets, and thus, are not subject to the PHA's pet policy.

A. What is considered Assistance Animals?

They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities. 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 (referred to in this guidance as a "support animal").

An animal that does not qualify as a service animal or other type of assistance animal is a pet for purposes of the FHA and will be treated as a pet for purposes of PHA's lease, rules and policies.

1. Service Animal

The ADA states a "service animal means any dog that is individually trained (professionally or by owner) 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."

i. Some examples of Task a Service Animal would help with:

- a) Assisting individuals who are blind or have low vision with navigation and other tasks,
- b) Alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
- c) Providing non-violent protection or rescue work,
- d) Pulling a wheelchair,
- e) Alerting a person with epilepsy to an upcoming seizure and assisting the individual during the seizure,
- f) Alerting individuals to the presence of allergens,
- g) Retrieving the telephone or summoning emergency assistance, or

- h) Providing physical support and assistance with balance and stability to individuals with mobility disabilities.

1. Support Animal

All other animals that perform a task or provides emotional support for an individual with a disability is considered a support animal. Training is not a requirement for an support animal.

i. Some examples of work, tasks or other types of assistance provided by support animals include:

- a) Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors,
- b) Reminding a person with mental illness to take prescribed medication,
- c) Alerting a person with diabetes when blood sugar is high or low,
- d) Taking an action to calm a person with post-traumatic stress disorder (PTSD) during an anxiety attack,
- e) Assisting the person in dealing with disability-related stress or pain,
- f) Assisting a person with mental illness to leave the isolation of home or to interact with others,
- g) Enabling a person to deal with the symptoms or effects of major depression by providing a reason to live, or
- h) Providing emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment.

B. Approval of Assistance Animals

A current or incoming tenant can request to keep an assistance animal as a reasonable accommodation. After resident requests to have a Assistance Animal, the PHA must evaluate first under the ADA and then under the FHA guidelines.

The PHA can ask whether the dog is a service animal required due to a disability and what tasks the animal has been trained to perform.

Certain impairments, however, especially including impairments that may form the basis for a request for an emotional support animal, may not be observable. In those instances, the PHA may request information from a Licensed health care professional – e.g., physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse – regarding both the disability and the disability related need for the animal. PHAs are not entitled to know an individual’s diagnosis.

Information that should be included:

- The patient’s name,
- Whether the health care professional has a professional relationship with that patient/client involving the provision of health care
- The type of animal(s) for which the reasonable accommodation is sought

- Whether the patient needs the animal(s) (because it does work, provides assistance, or performs at least one task that benefits the patient because of his or her disability, or because it provides therapeutic emotional support to alleviate a symptom or effect of the disability of the patient/client, and not merely as a pet).
-

PHA is not required to grant the accommodation unless this information is provided. 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 will engage in a good-faith dialogue with the requestor called the "interactive process." As long as the tenant participates in the interactive process dialogue and updates the PHA on where they are on the process of obtaining the required information, additional time will be given to get the required documentation.

C. Denial of Request

A request for an Assistance animal can be denied based on the following:

- Granting the request would impose an undue financial and administrative burden on the PHA
- The request would fundamentally alter the essential nature of the housing provider's operations
- The specific assistance animal in question would pose a direct threat to the health or safety of others despite any other reasonable accommodations that could eliminate or reduce the threat
- The request would result in significant physical damage to the property of others despite any other reasonable accommodations that could eliminate or reduce the physical damage
- The requested documentation is not submitted and the tenant does not participate in the interactive process.

If a request is denied the animal in question will be considered a pet and will be subject to all rules and regulation stated in the Pet Policy.

D. Care and Handling

HUD regulations do not affect any authority the PHA may have to regulate service animals and assistance animals under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

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

Tenants are responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.

Assistance animals must:

- Have all core inoculations
- Be spayed or neutered (6 month of age or older)

- Needs to be kept flea free
- Must be on a leash when outside of a tenant's unit unless this interferes with performing their tasks.
- Dogs must be under complete control of handler. The handler must be with the dog and must have their hand on the leash, unless this interferes with performance.
- Be provided with an appropriate carrier/cage/crate when left unattended in a unit.

To be in accordance with city regulations all dogs must be register with the city.

Tenants shall confine their assistance animal during the times when HA employees, agents of PHA, or others must enter the unit to conduct business, provide services, enforce lease terms, etc.

If the tenant is unable to be separated from their assistance animal, they can exit the unit with their dog before maintenance enters. The tenant will then wait with their animal at least 4 feet from any door or sidewalk that maintenance has to use to enter the unit.

Tenants must ensure that service animals and assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other tenants.

When a tenant's care or handling of a service animal or assistance animal violates these policies, the PHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the PHA determines that no such accommodation can be made, the PHA may withdraw the approval of a particular service or assistance animal.

Chapter 16

Pet Policy

In compliance with Section 227 of Title II of the Housing Urban Rural Recovery Act of 1983, the Housing authority will permit residents of housing developments built exclusively for occupancy by the elderly and disabled, to own and keep common household pets in their apartments. The Pleasanton Housing authority also allows pets for family units. Residents must register pet, immediately, to be in compliance with the Pet Policy in their lease.

The regulations refer to public housing other than public housing developments for the elderly or persons with disabilities; this amended policy refers to all public housing units. Public housing tenants not adhering to this policy will be considered in violation of the lease agreement and appropriate action will follow according to the dwelling lease.

Note: Residents will not be allowed to house a pet without fully complying with this policy

Exclusions

This policy does not apply assistance/service dogs. Companion, assistance, & Service dogs will be determined upon request. Assisting animals are allowed in all public housing facilities with no restrictions other than those imposed on all tenants to maintain their units and associated facilities in a decent, safe and sanitary manner and to refrain from disturbing their neighbors. The Housing Authority requires verification of such animals which have assisting capabilities. Current vaccination verification is required.

Applicable Laws

The pet policy of the Pleasanton Housing Authority (herein referred to as PHA) shall be consistent with applicable State and local public health, animal control and animal anti-cruelty laws and regulation in order to govern pet ownership in public housing. State and local law will govern the classification and treatment of “dangerous animals”. At any time there is a conflict between this policy and the applicable state, local public health, animal control and animal anti-cruelty laws and regulation the more restrictive will be enforced.

Approval of Pet

All tenants who wish to have a pet must complete a pet agreement form and receive PHA approval prior to having the pet in the unit. The Pet Agreement Form states but is not limited to, the name of the person accepting responsibly for the care of their pet in case of absence of more than 1 day. In such instance, the pet is not to be left in the unit.

The PHA will review the pet agreement form, discuss the pet policy with the tenant to ensure that all requirements and rules are fully understood.

Note: No pet request will be approved for a tenant who has failed an inspection for housekeeping within the past 12 months. No pet will be approved for a tenant who has a history of pet policy violations within the last three (3) years.

Types of Pets

The Housing Authority reserves the right to approve all types of pets. Generally common household pets are defined as follows:

- Dogs – not to exceed 50 pounds or be taller than 18 inches at full growth. Dogs must be spayed or neutered prior to move-in. Puppies and kittens are to be spayed/neutered at the vet's recommend age(6 months).
- Cats – Cats must be spayed or neutered and be declawed or have a scratching post.
- Birds – includes canary, parakeet, finch, and other species that are normally kept cage. Birds of prey are not permitted
- Fish – in tanks or aquariums, not to exceed 20 gallons in capacity. Poisonous or dangerous fish are not permitted.
- Hamsters, gerbils, etc. – must be kept in appropriate cage (no breeding pairs allowed). No Rabbits allowed.
- At no time will housing authority approve of exotic pets such as snakes, iguanas, or monkeys. Game pets such as ferrets, coons, squirrels, skunks, etc. are not approved either.

Registration

Every pet must be registered annually with the housing authority. Registration requires the following:

- Proof of current license (dog)
- Proof of inoculations: rabies, distemper, DHL, heartworm, and parvovirus
- Identification tag for dogs and cats
- Proof of spaying or neutering
- A yearly health certificate
- Every dog must have a city animal license and wear the current rabies tag and a tag bearing the owners information.

Pet Deposit

Pet Deposits are required of all tenants with a pet at time of registration. The deposit is refundable when the pet or the family vacates the unit, less any amount owed due to damage beyond normal wear and tear.

If paying the Pet Deposit at the time of registration will cause a hardship on the family, then a payment plan can be discussed.

Pet deposit are figured as follows:

- Elderly/Handicap tenants - deposit of \$50 or ½ of 1 month rent, whichever is less.
- All other tenants: A pet deposit of ½ of 1 month total.

Financial Obligation of Residents

Any resident who owns or keeps a pet in their dwelling unit will be required to pay for any damages caused by the pet. Also, any pet related insect infestation in the pet owner's unit will be the owner's financial responsibility. PHA reserves the right to exterminate and charge the

resident.

Terms and conditions

1. Only 2 pets will be allowed per unit unless you have a service animal.
 - a. If a tenant has a service animal (service/assistance animals are not considered pets) then they are allowed only 1 pet.
2. All pets are to be well mannered. Any pet deemed to be potentially harmful to the health or safety of others will not be allowed. Tenants will be required to remove any such pet that poses a threat. Failure to remove the pet at the request of the PHA, will be considered a lease violation and result in lease termination.
 - a. Definition of Dangerous Animal
Any animal that demonstrates any of the following types of behavior will not be approved nor allowed to stay after initial approval if such behavior becomes evident:
 - An attack on any person or property damage when such person is conducting oneself peacefully and lawfully.
 - An attack on another animal, livestock or poultry while on the property.
 - Where an opportunity exists, any behavior that constitutes a threat of bodily harm to a person when such person is conducting oneself peacefully and lawfully.
3. All fur bearing pets must be flea free at all times. This rule must be adhered to for the protection of non-pet residents
4. All units with pets must be kept free of pet odors and maintained in a clean and sanitary manner.
5. All birds must be provided with a cage.
6. If a pet poses a nuisance, such as excessive noise, barking, or whining, which disrupts the peace of the project, the owner shall remove the pet from the premises if management so requests within 14 days with a 14/30 lease termination. (14/30 lease termination notice rules apply)
7. Resident agrees to exempt the housing authority from any and all responsibility of injury or illness caused by tenant-owned pet.
8. The PHA will not be responsible for a pet that exits the unit if pet was left unattended and not properly caged.
9. Pet owner agrees to immediately remove or allow the housing authority to remove any pet within the scope of this policy, or improper maintenance at the resident's expense.

10. Any violation of the pet policy, unless otherwise mentioned, will result in a 14/30. This notice will give you 14 day correct the issue or 30 days to vacate your unit. Violation of the housing authority Pet Policy will be grounds for the termination of lease.

Cats:

1. Residents owning a cat must provide a litter box for their cat and that must be cleaned on a daily basis, disposing of feces in the proper manner. Do not flush litter or feces from the litter box down the toilet. DO NOT THROW LITTER OUTSIDE

Dogs:

1. All dogs must be on a leash or in an appropriate carrier/crate/cage when outside of a tenant's unit. Leash must be no longer than six (6) feet. Dogs must be under complete control of a responsible adult. Under control by an adult means, the adult must be with the dog and must have their hand on the leash.
2. While outside the dog is not allowed to enter into any neighbor's lawn area, whether invited or not.
3. Dogs must be provided with an appropriate carrier/cage/crate when left unattended in a unit.
4. Maintenance will not enter a unit if a dog is loose. If a tenant is unable to be separated from their dog, they will be given the option to exit the unit with their dog before maintenance enters the unit. Tenant will wait with their animal at least 4 feet from any door or sidewalk that maintenance has to use to enter the unit.

Dogs Left Outside

A dog let outside must be on a chain or dog tie-out cable, have a dog house (not a barrel or cardboard box) and adequate food and water at all times. Dogs are not be left outside for longer than 30 minutes at a time. All chains or dog tie-out cables must keep the dog from getting within 4 feet of a public sidewalk or road.

Do not attach chains or leashes to housing property (trees, porches, clothes line poles, etc.) Pets must be protected from extreme heat (heat index of 90 degrees and above) and freezing temperatures (30 and below) including ice and snow, in these conditions dogs can only be left outside for 15 minutes or less.

Inoculations

In order to be registered, pets must be appropriately inoculated against rabies, distemper, and other conditions prescribed by state and/or local ordinances. They must comply with all other state and local public health, animal control, and ante-cruelty laws including any licensing requirements. A certification signed by a licensed veterinarian or state/local official shall be annually provided to the PHA to attest to the inoculations.

Animal Waste

Pet owners are responsible for removing animal waste and disposing of it properly on a daily basis from their yards, regardless of its source. The tenant may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.

If animal waste is found in your lawn during inspection, pest control, furnace filter change or routine maintenance, the tenant will be issued a 24 hour notice to remove the waste.

If animal waste is not removed in accordance with this notice then Maintenance will remove the waste and the tenant will be charged a \$10.00 waste removal fee. If it is necessary to remove pet waste from a lawn three (3) times in any twelve (12) month period the owner will receive a 14/30 notice that will give the owner 14 days to remove the pet from the unit or to vacate the unit entirely in 30 days.

Nuisance or Threat to Health or Safety

The pet and its living quarters must be maintained in a manner to prevent odors and any other unsanitary conditions in the owner's unit and surrounding areas. Repeated substantiated complaints by neighbors or PHA personnel regarding pets disturbing the peace or neighbors through noise, odor, animal waste, and/or any other nuisance may result in the owner having to remove the pet or move him/herself. Any pet showing aggressive behavior will be removed from property with 24 hours of notice.

Pets that make noise continuously and/or incessantly for a period of 15 minutes or intermittently for one (1) hour or more to the disturbance of any person at any time of day or night shall be considered a nuisance. If after two (2) written notices the pet owner has not resolved the issue, the 3rd notice will be a 14/30 to either remove the pet within 14 days or choose to vacate the unit within 30 days.

Designation of Pet Areas

Dogs must be kept in the owner's unit or on a leash at all times when outside the unit (no outdoor cages may be constructed). If the PHA designates a pet area for a particular site, pets will be allowed only in these designated areas on the grounds of the property.

Pet owners must clean up after their pets and are responsible for disposing of pet waste. Cat litter must be disposed of in a trash bag and thrown away with the trash. Do not throw litter outside or flush it down the toilet.

Inspections/Workorders

The pet owner shall confine his/her pet during the times when HA employees, agents of PHA, or others must enter the unit to conduct business, provide services, enforce lease terms, etc.

If a tenant is unable to be separated from their dog, they can exit the unit with their dog before maintenance enters the unit. Tenant will wait with their animal at least 4 feet from any door or sidewalk that maintenance has to use to enter the unit.

Visitors Pets

Visiting pets that are vaccinated and meet the size and type criteria outlined above, may visit the units where pets are allowed for up to 2 weeks with PHA approval. Tenants who have visiting pets must abide by the conditions of this policy regarding health, sanitation, nuisances, and peaceful enjoyment of others. If visiting pets violate this policy or cause the tenant to violate the lease, the tenant will be required to remove the visiting pet.

Unattended Pet

Pets may not be left unattended in a dwelling unit for 16 hours. If the pet is left unattended and no arrangements have been made for its care, the HA will have the right to enter the premises and take the uncared for pet to be boarded at a local animal care facility at the total expense of the resident.

Miscellaneous Rules

- Pets cannot be kept, bred, or used for any commercial purpose
- The housing authority takes no responsibility for any tenant's pets or that pet's actions

Health and Safety of Pets

At any time there is substantiated reason to believe that an animal is not being properly cared for a representative of the PHA will take action to assure that the animal receives proper care. This may include contacting local authorities. This may include entering a unit without notice if there is a reason to believe that an animal is in distress contained in the unit.

In the unfortunate case of the death of a pet, the animal must be removed from the property immediately. In no case will a deceased animal remain on the property in excess of 12 hours. At no time will an animal that has died be in any area where others have access, either visually or physically, to the dead animal. All deceased animals must be properly secured immediately. No animal burials are allowed on the property. Pet owners will be responsible for finding alternative means to dispose of deceased animals.

Stray Animals

Do not set food or water outside of the unit. Feeding an animal, which is outside makes the animal your responsibility and you must comply with all pet requirements

Removal of Pets

The PHA, or an appropriate community authority, shall require the removal of any pet from a project if the pet's conduct or condition is determined to be a threat to the health or safety of other occupants of the project or of other persons in the community where the project is located.

In the event of illness or death of pet owner, or in the case of an emergency which would prevent the pet owner from properly caring for the pet, the PHA has permission to call the emergency

caregiver designated by the resident or the local Pet Law Enforcement Agency to take the pet and care for it until family or friends claim the pet and assume responsibility for it. Any expenses incurred will be the responsibility of the pet owner.

Chapter 16.5

Health Epidemic Plan

3/13/20

Health Epidemic plan includes but is not limited to Coronavirus (COVID-19) and Influenza type A & B.

This Plan is designed for the employees, the Housing Authority operations, and clients. This organization dedicated itself to keeping its employees healthy and safe during working hours.

It is the determination of the Housing Authority that if a full blown epidemic were to occur the Housing Authority would have no choice but to close the office, disrupting office hours. The potential affect would include missed work and health issues. The Housing Authority employs a multitude of employees which varies do to housing requirements. It is a good likelihood if one employee is exposed at work, all will be exposed. Staying home is required in this situation.

The Housing Authority is in communication protocols of the city, office, school, and daycare closings. The Linn County Health Department is the current human resource for updates and communication. Linn County has an information line (913) 795-7302 for the COVID-19 updates. If needed updates of any change of procedures will be in notifications to the clients/tenants.

The Housing Authority supplies notifications through newsletters to clients/tenants updating any procedures protocol changes, including information of health reports and protocols.

The Housing Authority reminds employees of the measures they should be taking to stay well, such as washing their hands and keeping surfaces, shared phones, touch screens clean and sanitized. Tips for employees and tenants:

- Stay away from people who are ill
- Stay home when you are sick
- Practice personal hygiene habits including hand washing, coughing into crook of elbow or a tissue
- Avoid touching eyes, nose, or mouth

Symptoms for the COVID19 include:

- Fever
- Cough
- Shortness of breathe

Symptoms for influenza include:

- Feeling feverish/chills.
- Cough
- Sore Throat.
- Runny or stuffy nose.
- Muscle or body aches.
- Headaches.
- Fatigue (tiredness)

This plan will include all postings and all resources available for information purposes.

As with any health situation as it evolves we will provide information to our normal business practices and updates on rescheduling.

Chapter 17

Community Service

A. Overview

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt (see definitions) public housing adult tenants (18 or older) contribute 8 hours per month of community service (volunteer work) or participate in 8 hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

1. Community Service

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance tenant self-sufficiency, or increase tenant self-responsibility in the community. Community service is not employment and may not include political activities.

Examples of eligible community service activities include work at:

- Local public or nonprofit institutions such as schools, libraries, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving PHA tenants or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, tenants, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds (so long as such work does not alter the PHA's insurance coverage); or work through tenant organizations to help other tenants with problems
- Care for the children of other tenants so parent may volunteer

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

2. Economic Self-Sufficiency Program

For purposes of satisfying the community service requirement, an economic self-sufficiency program is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

3. Exempt Individuals

An exempt individual is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of the disability s/he is unable to comply with the service provisions.
- Is a primary caretaker of a disabled household member (as defined above)
- Is engaged in work activities for a minimum of 20 hours per week. As it relates to an exemption from the community service requirement, *work activities* means:
 - Unsubsidized employment

- Subsidized private or 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)
 - 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.
- Enrolled as a full-time student (12 semester hours) at a secondary school or an institution of higher.
- 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 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 PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

C. Requirements for Non-Exempt Individuals

Each adult tenant of the PHA, who is not-working and not elderly, disabled or handicapped are deemed as non-exempt and required to:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

1. Family Obligation

i. Lease Execution & Annual Re-Examination

At lease execution and Re-exam, all adult members (18 or older) of a public housing tenant family must sign a certification that they have received and read the community service 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.

If a family member declares that they are exempt, they must complete an Exemption Form and provide documentation of the exemption to the PHA.

ii. Reporting to the PHA

Upon written notice from the PHA, non-exempt 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 the number of hours.

The PHA will accept self-certifications of compliance with the community service requirement and will validate a sample of certifications through third-party verification.

iii. Noncompliance

If a family member is found to be noncompliant at the end of the 12 month lease term, he or she, and the head-of-household, will be required to sign an agreement with the PHA to make up the deficient hours over the next 12 month period, or the lease will be terminated.

iv. Change in Exempt Status

If, during the 12 month lease period, a non-exempt person becomes exempt, it is his or her responsibility to report this to the PHA and provide documentation of exempt status.

If, during the 12 month lease period, an exempt person becomes non-exempt, it is his or her responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

2. PHA Obligation

The PHA will notify each adult tenant in regards to their status and requirements to comply with the Community Service policy based on that status.

i. Policy Information

The PHA will provide the family with a copy of the Community Service policy, and all applicable exemption verification forms and community service documentation forms, at lease execution, Annual Re-examination, when a family member becomes subject to the community service requirement during the lease term, and at any time

upon the family's request.

ii. Verification of Exemption

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. Tenants may use the PHA's grievance process if they disagree with the PHA's determination.

iii. Annual Review of Compliance

At least 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 noncompliant, the PHA will not renew the lease unless:

The head-of-household and any other noncompliant tenant enter into a written agreement with the PHA, to make up the deficient hours over the next 12 month period; or

The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.

If, at the end of the next 12 month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.

The family may use the PHA's grievance process to dispute the lease termination.

Chapter 18

Transfer Policy

A. Introduction

It is the objective of the PHA to assist with relocating families with unacceptable housing arrangements, ensure each family has an adequate size dwelling, and eliminate unnecessary unit transfers and vacant units. This Chapter will explain the PHA's transfer policy, based on HUD regulations, HUD guidance, and PHA policy decisions.

B. Policy

Public Housing Authorities must ensure that the size and type of unit in which a household is living is appropriated for the household size and needs. Therefore the Pleasanton Housing Authority adopted the following policy to better utilize the dwelling units.

- Tenants who have resided in the Housing Authority for the longest period of time that live in units that are underutilized per the Occupancy Policy and do not qualify for a reasonable accommodation, will be placed on a transfer waiting list.
- For every two (2) applicates on the waiting list that are placed in housing, one (1) existing tenant will be transferred.
- If there are no applicants on the waiting list for unit size, an tenant on the transfer list will be given a 30 day notice of transfer.
 - If the tenant chooses not to transfer and does not get approval from the director to stay based on medical exception, the 30 day transfer notice will serve as a 30 day notice to vacate.
 - If transfer is chosen, tenant will be checked into new unit and will have no more than thirty (30) days to transfer and be check out of old unit
- If a tenant requires a larger unit based on household size or type, the tenant or HA can request a transfer. This transfer will be reviewed and approval or denial will be up to the discretion of the director.
- The Housing Authority will review each individual circumstance before transferring tenants to appropriate size unit. It will be up to the discretion of the Director as to the feasibility of the transfer of existing tenants and priority of applicants on the waiting list for same size unit.
- If the director approves an individual tenant's circumstances not to transfer and the reason is not medical in nature, then tenant will remain at the top of the list and will be required to transfer upon receiving the next notice to transfer.

C. Other Types of Transfers

1. Emergency Transfers

HUD categorizes certain situations that require emergency transfers [PH Occ. GB, p.147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the PHA.

In the case of a genuine emergency, it may be unlikely that the PHA will have the time or resources to immediately transfer a tenant.

Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate.

i. Emergency Maintenance Transfer

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

Examples of such conditions include, for example:

- severe fire damaged;
- flooding;
- a gas leak;
- no heat in the building during the winter;
- no water;
- toxic contamination; and
- serious water leaks.

Under such circumstances, if an appropriately-sized unit is not immediately available, the PHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

ii. Emergency VAWA Transfer

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

The PHA will immediately process requests for transfers for a verified incident of domestic violence, dating violence, sexual assault, or stalking. The PHA has adopted an emergency transfer plan, which is included as **Exhibit 23-3** in this plan.

D. Emergency Transfer Procedures

If a transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, PHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location.

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

Emergency transfers that arise due to maintenance conditions are mandatory for the tenant. The PHA does not consider an emergency transfer an adverse action under 24 CFR 966.4(e)(8)(i) because the PHA, as a matter of public policy, cannot permit a tenant to remain in a unit that the PHA or another government agency has determined poses an immediate, verifiable threat to the life, health, or safety of its tenants.

Since an emergency transfer is not an adverse action, the transfer is not subject to the requirements regarding notice of adverse actions or a grievance hearing.

Emergency transfers that are necessary to protect a victim of domestic violence, dating violence, sexual assault, or stalking, PHA will follow procedures outlined in **Exhibit 23-3**.

E. Cost of Emergency Transfer

If necessary, the PHA will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions not caused by the tenant. The reasonable cost of transfers includes the cost of packing, moving, and unloading. The PHA may cover reasonable costs of disconnecting and reconnecting any existing tenant-paid services.

If the tenant requests a transfer for any reason, the tenant will bear the cost of transferring to another PHA unit.

F. Tenant Requested Transfers

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 PHA limits the types of requests that will be considered.

Some transfers that are requested by tenants will be treated as higher priority than others due to the more urgent need for the transfer.

A tenant will need to provide a written request for transfer to the PHA. The PHA will issue a decision within 10 days of the request. If the request is approved, the tenant will be responsible for all moving expenses and any additional security deposit if applicable.

1. Types of Tenant Requested Transfers

Transfers of the victim of verified incidents of domestic violence, dating violence, sexual assault, or stalking, are covered under the PHA's Emergency Transfer Procedures *Section A of this chapter*.

Otherwise, family requests for transfers that the PHA will consider are limited to:

- transfers permitted by the PHA as a reasonable accommodation because of a verified disability-related need to transfer to a different unit with one or more

objective, quantifiable characteristics specified in the accommodation request,

- transfers to alleviate verified medical problems of a serious or life-threatening medical condition,
- transfers due to a verified threat of physical harm or criminal activity,
- transfers to a different unit size if the family qualifies for the unit according to the PHA's occupancy standards, and
- transfer to improve transportation access for employment.

Any other family requested transfers may be considered by the PHA on a case-by-case basis.

2. Eligibility for Transfer

Tenants wanting to transfer do not have to meet admission eligibility requirements pertaining to income or preference. Generally, families who request a transfer will be placed on a transfer list and processed in a consistent and appropriate order.

Except where reasonable accommodation is being requested, the PHA will only consider transfer requests from tenants that meet the following requirements:

- Have resided in current unit for at least 1 year
- Have not engaged in criminal activity that threatens the health and safety of tenants and/or staff
- Owe no back rent or other charges, or have a pattern of late payments (a pattern of late payments is established as 2 late payments in the previous 12 months)
- Have no housekeeping lease violations or history of damaging property, or a pattern of other lease violations (pattern of lease violations is established as 2 lease violations in the previous 12 months).
- Can get utilities turned on in head of household's name and in good standing with the utility providers
- Owe no community service hours
- Cleared from extermination

A tenant with housekeeping standards violations will not be approved for transfer until the tenant passes a follow-up housekeeping inspection. In the case of housekeeping standards violations, if, after one follow up inspection, the family is still not meeting standards, they must wait 6 months to apply for another transfer.

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

Exceptions will also be made when the PHA determines that a transfer is necessary to protect the health or safety of a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, and who provides documentation of abuse in accordance with *Chapter 23* 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 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.

Chapter 19

Lease Terminations

A. 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 PHA.

B. Termination by Tenant

A tenant may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease.

A tenant that desires to move out, is required to give a 30 day written notice. The PHA has a *Notice of Intent to Vacate* form that the tenant is required to read and it must be signed by the head of household, spouse or co-head. When a tenant gives notice to vacate, the PHA will provide the tenant with a written copy of clean-up expectations for how to leave the unit upon move out.

A 30 day written notice is required, however in the event the tenant vacates the unit before the end of the 30 day period, the tenant will still be responsible for rent through the remainder of the notice period.

The tenant is required to provide a forwarding address.

C. Termination by PHA – MANDATORY

HUD requires mandatory termination of the lease for certain actions or inactions of the tenant family. For tenant actions or failure to act where HUD requires termination, the PHA has no such option.

In the following cases, a tenant's lease must be terminated:

1. Failure to Provide Consent [24 CFR 960.259(a) and (b)]

The PHA must terminate the lease if any family member fails to sign and submit any consent form they are required to sign for any reexamination. See *Chapter 10* for a complete discussion of consent requirements.

2. Failure to Document Citizenship [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The PHA must terminate the lease if:

- a). a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
- b). a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or
- c). a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. Such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See *Chapter 10* for a complete discussion of documentation requirements.

3. Failure to Disclose and Document SSNs [24 CFR 5.218(c), 24 CFR 960.259(a)(3)]

The PHA must terminate assistance if a participant family fails to disclose complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA will defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 days from the date the PHA determined the family to be noncompliant.

See *Chapter 10* for a complete discussion of documentation and certification requirements.

4. Failure to Accept a PHA Lease Revision [24 CFR 966.4(l)(2)(ii)(E)]

The PHA must terminate the lease if the family fails to accept the PHA's offer of a lease revision to an existing lease, provided the PHA has done the following:

- i. The revision is on a form adopted by the PHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and tenant organizations and their opportunity to present comments.
- ii. The PHA has made written notice of the offer of the revision at least 60 days before the lease revision is scheduled to take effect.
- iii. The PHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

5. Exceeding Family Asset Limit [24 CFP 5.603(b)]

HUD restricts families from receiving assistance in the public housing program if their net family assets exceed \$100,000* or if the family owns real property suitable for the family to

live in. There are qualifications and exemptions for both requirements.

6. Methamphetamine Conviction [24 CFR 966.4(l)(5)(i)(A)]

The PHA must immediately terminate the lease if PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

6. Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should the PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

7. 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 17*.

8. 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.

D. Termination by PHA – One Strike Policy

PHA develops One Strike policies and crack down on criminals, gangs, drugs, and violence in public housing, it will follow overarching principles:

All individuals have the right to live in peace and be free from fear, intimidation, and abuse. Public Housing residents have the same rights as all other American to live peacefully and decently. The elderly should not be afraid to go for walks in their neighborhoods. Families should be able to raise their children in safe, promising communities where children can play, learn, and grow without persistent threat.

Because of the extraordinary demand for affordable rental housing public and assisted housing should be awarded to responsible individuals. Some have expressed concerns about evicting criminals from public housing for fear that individuals or their families will have nowhere to go.

At a time when the shrinking supply of affordable housing is not keeping pace with the number of Americans who need it, it is reasonable to allocate scarce resources to those who play by the rules. There are many eligible, law-abiding families who are waiting to live in public assisted housing and who would readily replace evicted tenants. By refusing to evict or screen out problem tenants, we are unjustly denying responsible and deserving low-income families access to housing and are jeopardizing the community.

The recently-passed Extensions act also requires that the National Crime Information Center, police departments and other law enforcement entities make their criminal con-conviction records available to PHAs for the purpose of screening, lease enforcement, and eviction. In turn, PHAs are required to establish and implement systems of records management that ensure that records received are maintained confidentially, not misused, or improperly disseminated, and destroyed once action is taken.

PHAs must consider evidence of criminal activity – including violent crimes and any other crimes that would pose a threat to the life, health, safety, or peaceful enjoyment of residents – in making informed assessments about applicants' suitability for tenancy. PHA will consider applications for residence by persons with such criminal histories on a case-by-case basis, focusing on the concrete evidence of the seriousness and recentness of criminal activity as the best predictor of tenant suitability. PHAs also should take into account the extent of criminal activity and any additional factors that might suggest a likelihood of favorable conduct in the future, such as evidence of rehabilitation.

Under Extension Act, PHAs must also screen applicants for involvement in certain illegal drug-related activities. Specifically, PHAs must deny occupancy to applicants who have been evicted from public housing within the past five (5) years because of drug related criminal activity, unless the applicants have completed rehabilitation programs. PHAs must develop standards that deny occupancy to person illegally using controlled substances and to persons, who a PHA has reasonable cause to believe, based on illegal use or a pattern of illegal use of controlled substances may consider evidence of "reasonable cause" determination.

PHAs must adopt written policy and procedures governing admissions that describe the criteria and standards to be applied. PHA will post this policy in the office where applications are received and make copies of the policy available to applications upon request. When a PHA deems an applicant ineligible for admission, it will promptly notify the applicant of the basis for its decision, and provide the applicant with an opportunity for an informal hearing on the determination. The Extension Act also requires that where denial of occupancy is based on a criminal record, the PHA must provide the applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

Current law requires all PHAs to use leases that state that (1) any criminal activity is grounds for evictions if it threatens the health, safety, or right to the peaceful enjoyment of the premises by other tenants and the HA project, and (2) all drug-related criminal activity occurring on or off the premises is cause for eviction. Under the required lease terms, a tenancy can be terminated and the household evicted when the tenant, any member of the tenant's household or guest engages in the prohibited criminal activity.

In addition, the Extension Act requires PHAs to establish standards for occupancy that allows PHAs to evict any person who the PHA determines is illegally using a controlled substance.

The term "drug related crime" as defined in 42 U.S.C. 11905 (2) shall also include other crimes as reported under the FBI's Uniform Crime Reporting Program (UCR) system. These crimes are divided into two sections, Part I and Part II crimes.

Part I crimes are:

Criminal homicide, forcible rape, robbery, aggravated assault (to include domestic violence, domestic abuse, use of a weapon by means likely to produce death or great bodily harm), burglary-breaking or entering, larceny-theft, motor vehicle theft, and arson.

Part II crimes are:

Other assaults, forgery, counterfeiting, fraud, embezzlement, vandalism, weapons (carry, possessing), prostitution, sex offenses, (except forcible rape, prostitution and commercialized vice), drug abuse violations, gambling, offenses against the family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, all other offenses, suspicion, and offenses related to curfew and loitering laws and runaways.

PHAs must make their eviction policies clear in every lease. Including the HUD required language obligating tenants to assure that neither they nor any household members or guests, or other persons under their control, will engage in the prohibited drug-related or other criminal activities, including but not limited to the above listing and providing that failure to abide by this lease term is grounds for eviction. It is highly recommended that the lease contain language expressly that any drug-related or criminal activity in violation of this term will be treated as “a serious violation of the material terms of the lease.” PHAs will include additional language specifying that the PHA has a One Strike/Zero tolerance policy with respect to violations of lease terms regarding criminal activity. Under the Extension Act alcohol abuse is grounds for termination of tenancy if a PHA determines that such abuse interferes with the health, safety, or the rights to peaceful enjoyment of the premises by other tenants and the project. *3/8/06 2 repeated violations causing police to be called to a unit. Calls include but not limited to tenants, tenant’s household members, tenant’s guests invited or non-invited. The third violation is cause for Lease Termination.

Evictions are civil, not criminal, matters. In order to terminate a lease and evict a tenant, a criminal arrest or conviction is not necessary, and PHAs specify in their lease that criminal activity is cause for eviction even in the absence of arrest or conviction. Any provisions in state laws that require conviction in order to evict tenants are preempted by federal law. This does not mean that tenants can be evicted only on the basis of a suspicion that they have engaged in prohibited activity. PHAs will be prepared to prove in court that a tenant has violated his or her lease.

PHA will screen every newly admitted resident to ensure they (tenant) will be expected to comply with the rules of tenancy. Reviewing police and court records, credit or payment histories, and landlord references, and checking with probation officers, parole officers and local social service provider. Screening will be conducted on all appropriate members of the applicants’ household, rather than just the applicant. Obtaining police reports on all applicant household members 16 years of age and older to ascertain past drug or criminal activity will be performed.

PHAs will work in cooperation of local, state, and federal law enforcement officials and courts to gain access to criminal records of potential tenants to the full extent permitted by law.

It is the tenant's affirmative obligation to assure that neither they nor any member of their household or guest or other persons under their control will engage in prohibited drug-related or other criminal activities. This can be enforced by terminating leases and evicting entire household when a household member or guest commits a crime in violation of lease provisions. Eviction of an entire household may be appropriate as a means of protection the health, safety, and welfare of the public housing community. Alternative approaches may be appropriate such as allowing a household to remain in occupancy on the condition that the offending member move and agree not to return. PHAs may obtain trespass laws and restraining orders to keep former resident away from remaining household members.

Lease termination and evictions based on criminal activity must be preceded by notice and an opportunity for a hearing. PHA must provide the tenant with a chance to examine any relevant documents, records or regulations directly to the termination or eviction. This includes criminal conviction records that are the bases for termination or eviction. In Kansas PHAs need not handle these evictions through their ordinary administrative grievance procedures. HUD has determined that the state landlord-tenant process provided the necessary pre-eviction hearing and other basic elements of due process. This allows PHAs to exclude criminal activity evictions from their grievance procedures and proceed entirely through the state court system.

The cooperation of the local police can supply additional patrol for public housing communities with special needs.

PHAs should request that police: (1) Promptly provide housing managers with relevant incident reports for timely eviction processing; (2) help PHA expedite drug identification in serious cases; and (3) prepare for cases as needed with PHA's attorneys.

PHA Executive Directors and staff are to work together with police personnel regarding public housing needs and problems, and work out administrative arrangements so that full and expeditious cooperation occurs. The police must know exactly what criminal activities are grounds for lease termination so they can keep the PHA informed when such behavior occurs.

If the presence of some nonresidents can be linked to specific residents, the disruptive activities of these guest can be ground for eviction of the entire host household.

Where a PHA settles an eviction case on the condition that a disruptive household member moves away, to the extent allowed in the jurisdiction, the agreement must provide that (1) the individual thereafter will be a trespasser at the development and (2) the household can be subject to eviction if the individual comes back.

One Strike Policy is illegal drug-related activity and other criminal activity that threatens the well-being of the public housing community. To protect the safety and security of public housing, the PHA is to consider the effects of alcohol abuse by residents on the public housing community. The Extension Act requires that PHAs prohibit occupancy by a person if the PHA determines that it has reasonable cause to believe that the person's abuse or pattern of abuse

of alcohol may interfere with health, safety, or right to peaceful enjoyment of the premises by other residents. PHAs may consider evidence of rehabilitation. Termination of tenancy when the PHA determines that a person's abuse of alcohol is interfering with the rights of residents.

Persons evicted from Public Housing because of drug-related, criminal activity are ineligible for admission to Public Housing as follows: Criminal activity for 5 years from last arrest, conviction or 5 years from completion of sentence or probation. Three years for drug-related activity from the last arrest, conviction, or three years from completion of sentence or probation. Lifetime ineligible for met manufacturing, sale, distribution, use or possession.

*2/8/2006 Lifetime ineligibility admission/participation for registered lifetime and less-than-lifetime sex offenders.

*5/10/2006 The One Strike Policy lifetime Ineligibility also included persons convicted of other violent criminal charges, including murder and manslaughter.

E. Termination by PHA – Other Authorized Reasons

HUD requires PHAs to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation. The PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA has adopted policies concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. The PHA has adopted policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA lease. The PHA will consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes.

The PHA, with some restrictions, also has the option to terminate the tenancies of families who are over income. See Section G.4 of this Chapter.

The PHA may consider alternatives to termination and has established policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps PHA must take when terminating a family's lease.

F. Mandatory Lease Provisions [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHA to terminate for such violations in all cases, therefore PHA policies are needed.

The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to criminal activity.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in *Section G* and other factors as described in *Sections H and I of this Chapter*. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

1. Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

- i. Affiliated individual* is defined in *Chapter 2*
- ii. Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
- iii. Dating violence* is defined in *Chapter 23*
- iv. Domestic violence* is defined in *Chapter 23*
- v. Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].
- vi. Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.
- vii. Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
- viii. Household* means the family and PHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].
- ix. Other person under the tenant's control* means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.
- x. Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
- xi. Sexual assault* is defined in *Chapter 23*
- xii. Stalking* is defined in *Chapter 23*

- xiii. *Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

2. Other Serious or Repeated Violations of 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 may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [24 CFR 5.2005(c)(1)].

The PHA will terminate the lease for the following violations of tenant obligations under the lease:

- a). Failure to make payments due under the lease, including nonpayment of rent (see *Chapter 13, Section G*, for details pertaining to lease requirements for payments due);
- b). Repeated late payment of rent or other charges (2 late payments within a 12 month period constitutes a repeated late payment).
- c). Repeated violations of housekeeping Standards Policy. If a unit is repeatedly deemed unsanitary and unhealthy

Violations: units that are dirty, unhealthy, and/or unsanitary condition or health threatening pest (roaches, bedbugs, etc.) are found in the unit and/or storage closet

- d). Failure to fulfill the following household obligations that results in 2 lease violations in a 12-month period:
 - i. 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;
 - ii. Not to provide accommodations for boarders or lodgers;
 - iii. 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;
 - iv. To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;
 - v. 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;

- vi. To dispose of all garbage, rubbish, and other waste from the unit in a sanitary and safe manner;
- vii. To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities;
- viii. To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project;
- ix. 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;
- x. To act, and cause household members or guests to act, in a manner which will not disturb other tenants' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe, and sanitary condition.

G. Other Authorized Reasons For Termination [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes the PHA to terminate the lease for reasons other than those described in the previous sections of this ACOP. These reasons are referred to as "other good cause."

1. Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations provide a few examples of other good cause but do not limit the PHA to only those examples. The Violence Against Women Reauthorization Act of 2013 explicitly prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking as "other good cause" for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [24 CFR 5.2005(c)(1)].

The PHA 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 PHA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size
- Failure to transfer when required by the PHA or to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the PHA that such a dwelling unit is available
- Failure to permit access to the unit by the PHA 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 PHA of the birth, adoption, or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.
- Failure to abide by the provisions of the PHA 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 PHA personnel.
 - Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
 - Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the PHA will consider alternatives as described in *Section G* and other factors described in *Sections H and Section I in this Chapter*. Upon consideration of such alternatives and factors, the PHA may, on a

case-by-case basis, choose not to terminate the lease.

2. Family Absence From Unit [24 CFR 982.551(i)]

It is reasonable that a family may be absent from their unit for brief periods. (Absent in this case means that no member of the family is residing in the unit).

Resident may not be away from the unit any longer than 3 months, under any circumstances including illness and convalescing. Resident will turn over unit to Housing Authority at the end of that 3 month period.

Resident may be away from unit for three months if the following conditions are met:

- a. Absence must be due to illness or convalescing.
- b. Resident must provide Housing Authority with proof from doctor of illness or convalesce
- c. Must pay rent on time each month
- d. Must keep utilities paid and up to date
- e. Housekeeping and yard maintenance must be maintained

If any of the above conditions are not met or if any utilities are disconnected, the Resident will be given notice that they have 14 days to correct violation or 30 days to vacate the unit.

Out of a 31 day period Resident and its household must be in unit 23 1/4 days. A household must reside in unit 75 % of every month, unless absent because of convalesce due to illness. Verification of convalescing is required.

If a household is made up of 1 adult and children under the age of 18, the children must not be left in the unit alone if the adult is gone from the unit for a 24 hour or more period. No child under the age of 12 may be left in the unit alone.

The PHA asks that a family notify the office when all family members will be absent from the unit for an extended period of time.

The PHA may request information or proof that a family is living in the unit, if the PHA has reason to believe a family is not residing in the unit. The family must cooperate with the PHA for this purpose. Failure to adequately verify that the family is living in the unit may be grounds for lease termination.

Any tenant family that does not reside in their unit at least 75% of the time over a one year period, may be subject to lease termination. It is the policy of the PHA to house as many people as possible that will utilize the full benefits of the housing program. An example of this would be, having personal belongings in the unit, but spending 50% of the time staying elsewhere.

3. Abandonment of the Unit

If the Resident and all household members are absent from the premises for seven (7) consecutive days during the lease term or any renewal or extension period while rent is delinquent, the premises may be deemed by Management as abandoned and inspection

shows that all or most of the Resident's property has been removed. If Resident and household members are absent from the leased premises for thirty (30) consecutive days and the rent is thirty (30) days delinquent, the unit and property will be deemed abandoned.

Management may secure Resident's abandoned unit against vandalism and attach a notice of entry to the door of said unit. If there is no response to this notice of entry after forty-eight (48) hours or if all Resident's possessions have been removed, Management will take possession of the unit provided the rent still remains unpaid.

- Any possessions left in Resident's abandoned unit will be removed and stored by Management, at the expense of the Resident. There shall be no sale or disposition of any of the foregoing property except pursuant to this lease as follows:
 - Any sale of Resident's property under this lease shall take place only after a thirty (30) day written notice of time and place of sale is sent, certified mail and return receipt requested to resident's last known address.
 - Sale will be public and subject to any recorded chattel mortgage or financial statement.
 - Sale shall be to the highest cash bidder; proceeds shall first be credited to cost of sale and then to indebtedness; and surplus shall be mailed to the Resident at his/her forwarding or last known address.

Resident may claim possessions at any time prior to the sale as long as all indebtedness is remedied before removal of possessions.

Nothing in this section shall limit Management's right to immediately dispose of trash or other property appearing to have no value.

The Housing Authority will not be responsible for abandon property as per Section XV. Abandoned cars will be towed off property at Resident's expense. HA will not be responsible for any abandoned property

4. Over-Income Families [24 CFR 960.261; FR Notice 7/26/18]

The Housing Opportunity Through Modernization Act (HOTMA) of 2016, Sections 103, effective March 16, 2023, sets new limitations on program participation for families residing in public housing that remain over-Income (OI) for 24 consecutive months.

The over-income (OI) limit is set by multiplying the very low-income limit for correct family size (fixed annually by U.S. Department of Housing and Urban Development) by 2.4, a limit that is approximately 120% of the Area Median Income.

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, the PHA will document that fact in the family file and begin tracking the family's over-income status. A notice will be issued to the family in writing stating that they have

exceeded the OI limit and that continuing to exceed this limit for a total of 24 consecutive months will result in a lease termination.

Twelve months after the OI determination, an income reexamination will be conducted, unless it is already determined that family's income fell below the OI limit. If it is determined that the family continues to be Over-Income then a 2nd notice will be issued. This notice informs the family of their continued status and that continuing to exceed this limit for an additional 12 months will result in tenancy termination.

At the conclusion of the 2 years if it is found that the family's income continues to exceed the over-income limit then a notice of tenancy termination will be issued. It will state the family has up to 6 months to vacate the unit.

During the 24 consecutive month grace period, and in the period before tenancy termination, the family will continue to pay their current rent choice amount, following all program requirements, and maintain all right of a program participant.

If at any time an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHA 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 PHA 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.

H. Alternatives to Termination of Tenancy

As an alternative to termination of the lease for certain violations, HUD provides that the PHA may consider exclusion of the culpable household member or other such solution that 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.

1. Exclusion of Culpable Household Member

The PHA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where the 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 PHA request.

2. Repayment of Debts Instead of Termination

If a family owes amounts to the PHA, as a condition of continued occupancy, the PHA may require the family to repay the full amount or to enter into a repayment agreement,

within 30 days of receiving notice from the PHA of the amount owed. See *Chapter 22, Section C.*, for policies on repayment agreements.

I. 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 *Section C.*, of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

1. Evidence [24 CFR 982.553(c)]

For criminal activity, the PHA will terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

2. 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, the PHA will 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.

The PHA 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 tenants' 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 *Chapter 23*) a victim of domestic violence, dating violence, sexual assault, or stalking
- The effects that the eviction will have on other family members who were not involved in the action or failure to act
- The effect on the community of the termination, or of the PHA's failure to terminate the tenancy
- The effect of the PHA's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities
- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future
- While an arrest will not be used solely as the basis for termination, an arrest may, however, trigger an investigation to determine whether the participant engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:
 - Any statements made by witnesses or the participant not included in the police report
 - Whether criminal charges were filed
 - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
 - Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

3. Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

The PHA will take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose the PHA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

4. Reasonable Accommodation [24 CFR 966.7]

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA 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, Section D.*, for discussion of reasonable accommodation.

5. Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

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

J. Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2013 (VAWA) provides for public housing tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, refer to *Chapter 23* of this ACOP, where definitions of key VAWA terms are also located.

1. VAWA Protections against Termination [24 CFR 5.2005(c)]

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 affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13].

2. 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 as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, or stalking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define actual and imminent threat to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 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)]

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 tenants" [24 CFR 5.2005(d)(3)].

If the tenant wishes to contest the PHA's determination that he or she is an actual or imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

3. Documentation of Abuse [24 CFR 5.2007]

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the PHA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in *Chapter 23* of this ACOP.

The PHA 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 PHA will document the waiver in the individual's file.

4. Terminating or Evicting a Perpetrator of Domestic Violence

The PHA will bifurcate a family's lease and terminate the tenancy of a family member if PHA 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, PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to PHA by the victim in accordance with this section and *Chapter 23*. Upon such consideration, PHA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If PHA 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, PHA must provide any remaining tenant a chance to establish eligibility for the unit. If the

remaining tenant cannot do so, PHA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013.

K. Notification Requirements, Eviction Procedures and Record Keeping

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. There are also the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulation.

This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

1. Conducting Criminal Record Checks [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

If after initial eligibility, it has come to the attention of the PHA, either from local law enforcement or by other means that a tenant has engaged in criminal activity, the PHA may require another criminal records check. This will require the tenant in question to sign a current consent for the PHA to obtain a criminal records check.

Failure for the providing consent to the PHA to obtain criminal records could result in lease termination for non-compliance.

2. 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 all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, PHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the head of household 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 10 business days from the date of PHA's notice, to dispute the accuracy and relevance of the information. If the family does not contact PHA to dispute the information within that 10 business day period, the PHA will proceed with the termination action.

Where the adverse action results from the three following types of criminal activity, the termination will be excluded from the grievance procedure and proceed through the court system which provides the required elements of due process:

- a). Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other Tenants or employees of the PHA;
- b). Any violent or drug-related criminal activity on or off such premises; or
- c). Any criminal activity that resulted in felony conviction of a household member.

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.

3. Record Keeping

A written record of every termination and/or eviction shall be maintained by the PHA and shall contain the following:

- a) Name of tenant, number and identification of unit occupied;
- b) Date(s) of Notices to Quit Premises (HUD requirement) or Vacate (State Law requirement);
- c) Notice of Petition
- d) Specific reason(s) for the notices, with lease violations, disturbances, and other facts pertinent to the issuing of the Notices described in detail;
- e) Date and method of notifying the tenant;
- f) Summaries of any conferences held with the tenant, including names of conference participants and conclusions.

4. Lease Termination Notice [24 CFR 966.4(l)(3)]

All notices of lease termination will be done in writing. The PHA will tape the notice to the tenant's front and back doors. A copy of the notice will also be sent by certified mail the same day.

The notice will state the specific grounds for lease termination, the date the termination will take place, the tenant's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction as well as the PHA's grievance hearing procedures.

Terminations for any criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, because HUD has made a due process determination, the tenant will not have the opportunity for a grievance hearing. The notice will state the judicial eviction procedure to be used and that the opportunity for a hearing will be provided in court.

5. Timing of the Notice [24 CFR 966.4(l)(3)(i)]

The PHA will give written notice of lease termination within the following time periods:

- 14 days for nonpayment of rent;
- 30 days if:
 - a. the health or safety of other tenants, PHA employees or persons residing in the immediate vicinity of the premises is threatened;
 - b. any household member has been convicted of a felony;
 - c. any household member has engaged in any drug-related criminal activity or violent criminal activity on or off the premises;
- 30 days in all other cases, except if a state or local law allows a shorter notice period, such shorter period shall apply.

6. Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

If the PHA finds that a family is in noncompliance with the community service requirement, the tenant will be notified in writing of this determination. Notices of noncompliance will be

issued in accordance with the requirements and policies in *Chapter 17*.

If after receiving a notice of initial noncompliance the tenant does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a Notice of Non-Renewal 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 *Chapter 17* and will also serve as the notice of termination of tenancy.

7. 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 20* for the PHA's informal hearing procedures.

L. Eviction [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction is a legal process that may be undertaken to remove a tenant from the unit. When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the PHA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the tenant remains in occupancy beyond the deadline to vacate given by the court, the PHA will seek the assistance of the court to remove the tenant family from the premises as per state and local law.

The tenant will be required to pay all court costs, reasonable attorney fees and other expenses in enforcing or defending the lease and in recovering possession of the premises, unless the tenant prevails in such legal action.

The PHA may not proceed with an eviction action if PHA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

Chapter 20

Grievances and Appeals

Under Federal Law the Housing Authority is not required to provide an administrative grievance hearing before evicting a public housing tenant for:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other resident or employees of the PHA.
- Any violent or drug-related criminal activity on or off such premises; or any criminal activity that resulted in felony conviction of a household member --- 24 CFR 966.51
- In the State of Kansas the Housing Authority may exclude from the administrative grievance procedure any grievance concerning an eviction pursuant to an action for rent and possession or an action for forcible detainer.
- These above exemptions defined in 24 CFR 966.53 states that the court hearing will allow due process for the tenant to be heard for the above.

All other terminations allow a tenant to request an informal hearing within 5 days of the Termination Notice. The tenant must present the request in writing. The informal stage will be reviewed and the tenant will be contacted and a meeting arranged at a mutually agreeable time.

At the informal hearing, the HA will hear the discussion/disputed action. Within 5 working days the HA will provide the tenant with a written summary of the informal hearing.

If the informal hearing cannot resolve the grievance a formal hearing may be requested in writing within 5 working days of the written summary.

If the compliant does not request a formal hearing within the above time frame the decision made during the informal hearing becomes final, unless the tenant can show good cause why she/he failed to request a formal hearing. 24 CFR 966.54/966.55

Failure to request a formal hearing, however does not affect the tenants right to a court hearing on the matter.

Program Integrity

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

A. Preventing Errors and Program Abuse

HUD created the Enterprise Income Verification (EIV) system to provide PHA with a powerful tool for preventing errors and program abuse.

The PHA is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233].

The PHA is further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

The PHA anticipates that the vast majority of families and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that PHA’s program is administered effectively and according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare, such as:

- Providing each applicant and tenant with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- Providing each applicant and tenant with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- Conducting mandatory orientation for all adult tenants upon execution of the lease. The PHA will discuss program compliance, integrity issues and require all adult members of the household to sign forms, to confirm that all rules and pertinent regulations were explained to them.

- Routinely provide tenant counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.
- To review and explain the contents of all HUD and PHA-required forms prior to requesting family member signatures.
- Providing each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

1. Definitions

For purposes of this chapter, the following definitions apply:

- a). **Error** - refers to an unintentional error or omission.
- b). **Fraud and program abuse** – refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

B. Detecting Errors and Program Abuse

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

1. Quality Control and Analysis of Data

The PHA will employ a variety of methods to detect errors and program abuse, including:

- Routinely using EIV and other non-HUD sources of up-front income verification. This includes any other private or public databases available to the PHA.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The PHA will compare family-reported income and expenditures to detect possible unreported income.

2. Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

The PHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

3. Individual Reporting of Possible Errors and Program Abuse

The PHA will encourage staff, tenants, and the public to report possible abuse.

C. Investigating Errors and Program Abuse

1. When the PHA will Investigate

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the PHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

2. Consent to Release of Information [24 CFR 960.259]

The PHA may investigate possible instances of error or abuse using all available PHA and public records.

If necessary, the PHA will require tenant families to give consent to the release of additional information. If the family refuses to sign consent forms within 10 days, the PHA will terminate the tenancy.

3. Analysis and Findings

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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 that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation, the PHA will determine:

- Whether an error or program abuse has occurred,
- Whether any amount of money is owed the PHA, and
- Which corrective measures or penalties will be assessed

4. Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively.

Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the PHA will take into consideration:

- The seriousness of the offense and the extent of participation or culpability of individual family members;
- Any special circumstances surrounding the case;
- Any mitigating circumstances related to the disability of a family member; and

- The effects of a particular remedy on family members who were not involved in the offense.

5. Notice and Appeals

The PHA will inform the relevant party in writing of findings and remedies within 10 business days of the conclusion of the investigation. The notice will include:

- a description of the error or program abuse;
- the basis on which the PHA determined the error or program abuse;
- the remedies to be employed; and
- the family's right to appeal the results through an informal hearing or grievance hearing (*See Chapter 20*).

D. Corrective Measures and Penalties

1. Under or Overpayment

An under or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to the family.

i. Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the PHA will promptly correct the tenant rent and any utility reimbursement prospectively.

Increases in the tenant rent will be implemented on the first of the month following a 30 day written notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

ii. Reimbursement

Whether the family is required to reimburse the PHA or the PHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse.

Policies regarding reimbursement are discussed in the following sections.

E. Family-Caused Errors and Program Abuse

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members. An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third-party.

The PHA is required to determine retroactive rent amount as far back as the PHA has documentation of family reported income. For example, if the PHA determines that the family has not reported income for a period of five years and only has documentation for the last 3

years, the PHA is only able to determine retroactive rent for the 3 years for which documentation is available.

1. Family Reimbursement to the PHA

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The PHA may, but is not required to, offer the family a repayment agreement in accordance with *Chapter 22*. If the family fails to repay the amount owed, the PHA will terminate the family's tenancy in accordance with the policies in *Chapter 19*.

2. PHA Reimbursement to Family

The PHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

3. Prohibited Actions

An applicant or tenant in the public housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the PHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives
- Offering payments or other incentives to a third-party as an inducement for the third-party to make false or misleading statements to the PHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

4. Penalties for Program Abuse

In the case of program abuse caused by the family the PHA may, at its discretion, impose any of the following remedies:

- The PHA may require the family to repay any amounts owed to the program.

- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in *Chapter 4* (for applicants) and *Chapter 19* (for tenants).
The PHA may deny admission or terminate the family's lease following the policies set forth in *Chapter 4* and *Chapter 19* respectively.
The PHA may refer the family for state or federal criminal prosecution as described in *Chapter 21*.

F. PHA-Caused Errors or Program Abuse

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

1. Repayment to the PHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by PHA staff.

2. PHA Reimbursement to Family

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

G. Criminal Prosecution

When the PHA determines that program abuse by a family or PHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

H. Fraud and Program Abuse Recoveries

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100% of program funds that the PHA recovers [Notice PIH 2007-27 (HA)].

If the PHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the PHA's grievance process.

Chapter 22

Program Administration

This Chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP.

A. Utility Allowances

The PHA is required to 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, water, sewerage, and solid waste disposal for a dwelling unit. Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by tenantable 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.

1. Utility Allowance Revisions [24 CFR 965.507]

The PHA will 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.

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.

2. Notice Requirements [24 CFR 965.502]

The PHA will give notice to all tenants of proposed allowances and scheduled surcharges, and revisions thereof. The notice will 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 tenants of the place where the PHA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all tenants 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.

3. Reasonable Accommodation [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the PHA must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

See *Chapter 2* for policies regarding the request and approval of reasonable accommodations.

B. Flat Rents [24 CFR 960.253(b); Notice PIH 2017-23; PH OCC GB]

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 9*.

1. Establishing Flat Rents

The PHA must base its flat rents on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a flat rent schedule that establishes payment amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA establishes a single payment standard amount for the whole FMR area.

The 2015 Appropriations Act requires that flat rents must be set at no less than 80% of the applicable fair market rent (FMR). Alternatively, the PHA may set flat rents at no less than 80% of the applicable small area FMR (SAFMR) for metropolitan areas, or 80% 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% of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits PHAs to request an exception flat rent that is lower than either 80% of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

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 the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA

The PHA must receive written HUD approval before implementing exception flat rents. If the PHA chooses to use exception flat rents, the PHA must conduct a new market analysis, and obtain HUD approval, annually.

The PHA will apply its utility allowance to flat rents. Flat rents set at 80% of the FMR must be reduced by the amount of the unit's utility allowance, if any.

2. Updating Flat Rents

When HUD updates its FMRs, the PHA must review its flat rents. No later than 90 days after the effective date of the new annual FMRs/SAFMRs, PHAs must implement new flat rents as necessary based changes to the FMR/SAFMR or request an exception.

If the FMR falls from year to year, the PHA may, but is not required to, lower the flat rent to 80% of the current FMR/SAFMR.

3. Posting of Flat Rents

The flat rent schedule will be posted at the PHA office. A copy of the flat rents will be included in the monthly newsletter.

4. Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The PHA will maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the PHA in accordance with this method.

C. Tenant Debts Owed to PHA

Any amount owed to the PHA by a tenant family must be repaid. If the family is unable to repay the debt within 30 days, the tenant may request to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the family's tenancy in accordance with the policies in *Chapter 19*.

1. Repayment Policy

It is the policy of the PHA, not to provide housing assistance to a family who has an indebtedness to the PHA until either the balance is paid in full or a repayment agreement has been executed.

Before executing a repayment agreement with a family, the PHA will generally require the tenant to be in good standing with the PHA. To be in good standing, a tenant must not have any other outstanding debts related to an existing repayment agreement, and a tenant must be compliant with their lease.

2. Execution of the Agreement

Any repayment agreement between the PHA and tenant family must be signed and dated by both parties. A copy will be provided to the tenant family and a copy will also be retained in the tenant file at the PHA office.

3. Due Dates

All payments are due by the close of business on the 5th working day of the month. The PHA and tenant family may make a due date later in the month depending on evidence provided by the tenant family to reduce the burden of paying on the 5th working day of the month. The due date will be stated on the repayment agreement.

4. Late or Missed Payments

If a payment is not received by the end of the day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 14 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 PHA will terminate tenancy in accordance with the policies in *Chapter 19*.

A tenant receiving 2 delinquency notices for late payment in a 12 month period, is considered in default. The PHA can terminate tenancy in accordance with the policies in *Chapter 19*.

5. No Offer of Repayment Agreement

The PHA generally will not enter into a repayment agreement with a family if:

- there is already a repayment agreement in place with the family;
- the payment schedule is determined to be greater than 48 months;

- the PHA has issued a *Notice to Quit* and is in the process of terminating the family's lease.

D. Record Keeping

The PHA is required to 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 are available to HUD upon request.

In addition, the PHA will 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.

1. Record Retention

The PHA will keep Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least 10 years from the end of participation (EOP) date [24 CFR 908.101].

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 will 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 10 years, or for a period of time as specific in program regulations [24 CFR 5.2002(e)(12)].

In addition, the PHA will keep the following records for at least 10 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 establishment of utility allowances and surcharges
- Documentation related to PHAS
- Accounts and other records supporting PHA budget and financial statements for the program
- Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule
- Confidential records of all emergency transfers related to VAWA requested under the PHA's Emergency Transfer Plan and the outcomes of such requests
- Other records as determined by the PHA or as required by HUD

E. Records Management

The PHA will maintain applicant and participant files and information in accordance with regulatory requirements established by HUD. All applicant and participant information is kept in a secure location and can only be accessed by authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

1. Records Management [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

2. Upfront Income Verification (UIV) Records

The PHA has access to UIV data through HUD's Enterprise Income Verification (EIV) system.

The PHA has adopted and implemented specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

3. Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA has established and implemented a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA has established and implemented a system of records management that ensures that any sex offender registration information received by the PHA from a State or local

agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

4. Medical/Disability Records

The PHA is not permitted to inquire about the nature or extent of a person's disability. The PHA will 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. The PHA will destroy the document.

5. Domestic Violence, Dating Violence, Sexual Assault, or Stalking Records

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see *Chapter 23*

F. Reporting Requirements for Children with Environmental Intervention Blood Lead Level [24 CFR 35.1130(e)]

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The PHA will report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. The PHA will also report each known case of a child with an environmental intervention blood lead level to the HUD field office.

G. Procedure Due to Death of Tenant

At lease-up, tenants are required to complete an entrance/removal agreement, naming individual(s) allowed to enter the unit following an emergency and/or death.

In the event of a tenant's death, the unit will be secured and local police department contacted. If the deceased tenant lived alone the locks will be changed immediately. No one will be allowed to enter the unit, (family included) unless accompanied by PHA personnel. Family members, who wish to obtain clothes for burial, search for a Will or Life Insurance Policy, will be allowed to do so in the presence of PHA personnel. Individuals with proper proof of authority to handle the tenant's estate will be allowed access once that proof has been verified.

Chapter 23

Violence Against Women Act (VAWA): Notification, Documentation, and Confidentiality

A. Overview

The Violence against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

B. Definitions [24 CFR 5.2003, FR Notice 8/6/13]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term sexual assault means:
 - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent

- The term stalking means:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

C. Notification [24 CFR 5.2005(a)]

The PHA will post the following information regarding VAWA in its office. It will also make the information readily available to anyone who requests it.

A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see **Exhibit 23-1**)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see **Exhibit 23-2**)

A copy of the PHA's emergency transfer plan (**Exhibit 23-3**)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (**Exhibit 23-4**)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in **Exhibit 23-1**)

1. Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

The PHA is 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 VAWA information provided to applicants and participants will consist of the notices in **Exhibit 23-1** and **Exhibit 23-3**.

The PHA will provide all applicants with information about VAWA at the time they request and application for housing assistance, and also include such information in all notices of denial of assistance.

The PHA will provide all tenants with information about VAWA at the time of admission.

The PHA is not limited to providing VAWA information at the times specified above. If the PHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 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.

D. Documentation [24 CFR 5.2007]

If the PHA is presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)] The individual may satisfy the PHA's request by providing any one of the following 3 forms of documentation [24 CFR 5.2007(b)]:

- A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking – **Exhibit 23-2**), 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.
- A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; mental health 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 2005 final rule].

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

1. Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA 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 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 will hold separate hearings for the tenants [Notice PIH 2017-08].

2. Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). If the PHA so chooses to accept an individual's statement, it will be documented in a confidential manner and placed in the tenant's file.

3. Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, the PHA will provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

E. Confidentiality [24 CFR 5.2007(b)(4)]

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

EXHIBIT 23-1: Notice to Public Housing Applicants and Tenants Regarding the Violence Against Women Act (VAWA) HUD-5380

HOUSING AUTHORITY OF THE CITY OF PLEASANTON

Notice of Occupancy Rights under the Violence Against Women Act¹

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.² The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that Public Housing programs are 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 Public Housing programs, 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 programs, 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 yours 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 programs 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.

HUD's program-¹ The notice uses PHA for housing provider but the housing provider should insert its name where PHA is used. 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 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

PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If PHA chooses to remove the abuser or perpetrator, PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, PHA must follow Federal, State, and local eviction procedures. In order to divide a lease, PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families. PHA's emergency transfer plan provides further information on emergency transfers, and PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

PHA 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 PHA must be in writing, and PHA 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. PHA 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 PHA as documentation. It is your choice which of the following to submit if PHA 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 PHA 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, agent, 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 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 PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, PHA does not have to provide you with the protections contained in this notice.

If PHA 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), PHA has the right to request that you provide third-party documentation within 30 days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, PHA does not have to provide you with the protections contained in this notice.

Confidentiality

PHA 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.

PHA must not allow any individual administering assistance or other services on behalf of PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

PHA must not enter your information into any shared database or disclose your information to any other entity or individual. PHA, however, may disclose the information provided if:

- You give written permission to PHA to release the information on a time limited basis.
- PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires PHA or your landlord to release the information.

VAWA does not limit PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If PHA can demonstrate the above, PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

For questions regarding VAWA, please contact:

Executive Director, Pleasanton Housing Authority at 352-6289

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with HUD at 800-955-2232.

For Additional Information

You may view a copy of HUD's final VAWA rule at:

<https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-againstwomen-reauthorization-act-of-2013-implementation-in-hud-housing-programs>.

Additionally, PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY).

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 Safe House Crisis Center at 800-794-9148 or local law enforcement at 620-223-1700

EXHIBIT 23-2: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, Form HUD-5382

CERTIFICATION OF
0286

U.S. Department of Housing

OMB Approval No. 2577-

DOMESTIC VIOLENCE,
06/30/2017

and Urban Development

Exp.

DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 23-3: Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Attachment: Certification form HUD-5382

Pleasanton Housing Authority

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
Public Housing Program**

Emergency Transfers

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),³ the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.⁴ The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the public housing and housing choice voucher (HCV) programs are in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

³Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

⁴Housing 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.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit. If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency Transfers: Public Housing (PH) Program

If you are a public housing TENANT and request an emergency transfer as described in this plan, the PHA will attempt to assist you in moving to a safe unit quickly. The PHA will make exceptions as required to policies restricting moves.

Emergency transfers for which you are not required to apply for assistance include the following:

- Public housing unit in a different development
- Public housing unit in the same development, if you determine that the unit is safe

At your request, the PHA will refer you to organizations that may be able to further assist you. You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by the PHA (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the PHA will refer you to organizations that may be able to further assist you.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY). Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/ourprograms/stalking-resource-center>.

Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking: For help regarding domestic violence, sexual assault, or stalking, you may contact the Safe House Crisis Center at 800-794-9148 or local law enforcement at 620-223-1700. 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/ourprograms/stalking-resource-center>.

EXHIBIT 23-4: Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Dating Violence, Sexual Assault, or Stalking Form HUD-5383
**EMERGENCY TRANSFER
REQUEST FOR CERTAIN
VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**
**U.S. Department of Housing
and Urban Development**

 OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

- (1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.
- (2) **You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.
- (3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third-party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____
2. Your name (if different from victim's) _____
3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____
6. Address or phone number for contacting the victim: _____
7. Name of the accused perpetrator (if known and can be safely disclosed): _____
8. Relationship of the accused perpetrator to the victim: _____
9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit. _____

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
HA	Housing authority or housing agency
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
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
VCA	Voluntary Compliance Agreement

DEFINITIONS 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.

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*.)

At risk of homelessness. An individual who:

- Has an annual income below 30% of median family income for the area, and
- Does not have sufficient resources or support networks immediately available to prevent them from moving to an emergency shelter or another place, and
- Meets one of the following conditions:
 - Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for assistance,
 - Is living in the home of another because of economic hardship,
 - Has been notified that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance,
 - Lives in a hotel or motel and the cost is not paid for by charitable organizations or by Federal, State, or local government programs for low income individuals,

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 a public housing, 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.

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 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, co-head, spouse, or sole member is a person with disabilities; 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 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.

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 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 24 CFR 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 redetermined rent becomes effective.

Elderly family. A family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age; 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 as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30% 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% of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 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. 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 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. 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 at no less than 80% 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). (See 24 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.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is 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.

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 premium) 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 \$0 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. 1/12th of adjusted income.

Monthly income. 1/12th 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.

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.

Person 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 a 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 an impairment, or a person with a record of such an 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 transportation assistance, provided that the total amount over a 6 month period is at least \$500.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Recertification. Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing program, the PHA administering the program under an ACC with HUD.

Secretary. The Secretary of Housing and Urban Development.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a))

Sexual orientation. Homosexuality, heterosexuality, bisexuality or non-binary

Single person. A person living alone or intending to live alone.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

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.

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 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 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.

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 (984.103(b)), *welfare assistance* includes 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.