HOUSING AUTHORITY
OF THE COUNTY OF SAN DIEGO

DRAFT
Public Housing Admissions and Continued Occupancy Policy

JULY 2024

Housing Authority of the County of San Diego
3989 Ruffin Road, San Diego, CA 92123

SIGNIFICANT CHANGES BETWEEN FY 2023/2024 PUBLIC HOUSING ADMISSIONS AND OCCUPANCY POLICY AND THE FY 2024/2025 PUBLIC HOUSING ADMISSIONS AND OCCUPANCY POLICY (ACOP)

FY 2023/2024 ACOP	**FY 2024/2025 ACOP**
Public Housing Lease	Added regulatory language regarding over-income households and capped attorney's fees at $500.
Housing Opportunities Through Modernization Act (HOTMA) Exhibit	Created a new exhibit to detail regulatory and discretionary HOTMA changes related to income and asset evaluations that will take effect January 1, 2025.
	Miscellaneous Minor Edits

Table of Contents

CHAPTER 1 - STATEMENT OF POLICIES AND OBJECTIVES

A. HOUSING AUTHORITY MISSION 1-1
B. LOCAL OBJECTIVES 1-1
C. PURPOSE OF THE POLICY 1-2
D. FAIR HOUSING POLICY 1-2
E. SERVICE AND ACCOMMODATIONS POLICY 1-5
F. TRANSLATION OF DOCUMENTS 1-10
G. LANGUAGE ASSISTANCE 1-10
H. PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS) OBJECTIVES 1-10
I. FAMILY OUTREACH 1-11
J. RECORD RETENTION AND MANAGEMENT 1-11
K. PRIVACY RIGHTS 1-8
L. POSTING OF REQUIRED INFORMATION 1-9
M. REFERRAL OF PUBLIC HOUSING RESIDENTS TO THE PHA'S SECTION 8 HOUSING CHOICE VOUCHER PROGRAM 1-11
N. TERMINOLOGY 1-11

CHAPTER 2 - ELIGIBILITY FOR ADMISSION

A. QUALIFICATION FOR ADMISSION 2-1
B. FAMILY COMPOSITION 2-2
C. MANDATORY SOCIAL SECURITY NUMBERS 2-7
D. FAMILY CONSENT TO RELEASE INFORMATION 2-9
E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS 2-9
F. OTHER ELIGIBILITY CRITERIA 2-10
G. DENIAL OF ADMISSION FOR DRUG-RELATED AND/OR OTHER CRIMINAL ACTIVITY 2-12
H. SCREENING FOR SUITABILITY 2-20
I. HEARINGS 2-26

CHAPTER 3 - APPLYING FOR ADMISSION

A. HOW TO APPLY 3-1
B. "INITIAL" APPLICATION PROCEDURES 3-2
C. NOTIFICATION OF APPLICANT STATUS 3-2
D. COMPLETION OF A FULL APPLICATION 3-3
E. EIV SYSTEM SEARCHES 3-4

F. PROCESSING APPLICATIONS.....3-5
G. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILIT.....3-6

CHAPTER 4 - TENANT SELECTION AND ASSIGNMENT PLAN

A. MANAGEMENT OF THE WAITING LIST.....4-1
B. WAITING LIST PREFERENCES.....4-3
C. LOCAL PREFERENCES.....4-4
D. ORDER OF SELECTION FOR GENERAL OCCUPANCY (FAMILY) DEVELOPMENTS.....4-6
E. ORDER OF SELECTION FOR MIXED POPULATION DEVELOPMENTS.....4-7
F. VERIFICATION OF PREFERENCE QUALIFICATION.....4-8
G. PREFERENCE DENIAL.....4-8
H. FACTORS OTHER THAN PREFERENCES THAT AFFECT SELECTION OF APPLICANTS.....4-8
I. INCOME TARGETING.....4-8
J. UNITS DESIGNATED FOR THE ELDERLY.....4-9
K. UNITS DESIGNATED FOR THE DISABLED.....4-9
L. DECONCENTRATION OF POVERTY AND INCOME-MIXING.....4-10
M. PROMOTION OF INTEGRATION.....4-10
N. OFFER OF PLACEMENT ON THE SECTION 8 WAITING LIST.....4-10
O. REMOVAL FROM WAITING LIST AND PURGING.....4-10
P. OFFER OF ACCESSIBLE UNITS.....4-11
Q. PLAN FOR UNIT OFFERS.....4-11
R. CHANGES PRIOR TO UNIT OFFER.....4-12
S. APPLICANT STATUS AFTER FINAL UNIT OFFER.....4-12
T. TIME-LIMIT FOR ACCEPTANCE OF UNIT.....4-12
U. REFUSAL OF OFFER.....4-13

CHAPTER 5 - OCCUPANCY GUIDELINES

A. DETERMINING UNIT SIZE.....5-1
B. EXCEPTIONS TO OCCUPANCY STANDARDS.....5-2
C. INCENTIVES TO ATTRACT HIGHER INCOME FAMILIES TO LOWER INCOME DEVELOPMENTS.....5-3
D. ACCESSIBLE UNITS.....5-3
E. FAMILY MOVES.....5-4

CHAPTER 6 - DETERMINATION OF TOTAL TENANT PAYMENT

A. MINIMUM RENT 6-1

B. INCOME AND ALLOWANCES 6-1

C. TRAINING INCOME EXCLUSIONS 6-3

D. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS .6-5

E. INDIVIDUAL SAVINGS ACCOUNTS 6-8

F. TRAINING PROGRAMS FUNDED BY HUD 6-8

G. WAGES FROM EMPLOYMENT WITHIN THE PHA OR RESIDENT ORGANIZATION 6-8

H. AVERAGING INCOME.....6-8

I. MINIMUM INCOME.....6-8

J. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME ...6-9

K. REGULAR CONTRIBUTIONS AND GIFTS.....6-9

L. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNING 6-10

M. ALIMONY AND CHILD SUPPORT.....6-10

N. LUMP-SUM RECEIPTS 6-11

O. ASSETS 6-12

P. CONTRIBUTIONS TO RETIREMENT FUNDS- ASSETS 6-12

Q. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE.....6-12

R. CHILDCARE EXPENSES 6-13

S. MEDICAL EXPENSES.....6-13

T. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES.....6-16

U. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS.....6-17

V. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS.....6-19

W. EXCESS UTILITY PAYMENTS 6-19

X. FAMILY CHOICE IN RENTS 6-19

CHAPTER 7 - VERIFICATION PROCEDURES

A. METHODS OF VERIFICATION AND TIME ALLOWED.....7-1

B. RELEASE OF INFORMATION.....7-3

C. COMPUTER MATCHING.....7-4

D. ITEMS TO BE VERIFIED.....7-5

E. VERIFICATION OF INCOME 7-5

F. VALUE OF ASSETS AND ASSET INCOME 7-12

G. VERIFICATION OF ASSETS 7-13

H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME 7-15
I. VERIFYING NON-FINANCIAL FACTORS 7-16
J. VERIFICATION OF SUITABILITY FOR ADMISSION 7-22
K. VERIFICATION OF WAITING LIST PREFERENCES 7-23

CHAPTER 8 - TRANSFER POLICY

A. GENERAL STATEMENT 8-1
B. ELIGIBILITY FOR TRANSFER 8-2
C. PRIORITY OF TRANSFERS 8-2
D. EMERGENCY TRANSFER 8-3
E. SPECIAL CIRCUMSTANCES TRANSFER 8-4
F. MANDATORY TRANSFERS 8-5
G. NON-MANDATORY TRANSFERS 8-6
H. MOVING COSTS 8-5
I. SECURITY DEPOSITS 8-7
J. PROCESSING TRANSFERS 8-7
K. REEXAMINATION DATE 8-7

CHAPTER 9 - LEASING

A. LEASE ORIENTATION 9-1
B. LEASE REQUIREMENTS 9-2
C. EXECUTION OF LEASE 9-2
D. ADDITIONS TO THE LEASE 9-3
E. LEASING UNITS WITH ACCESSIBLE OR ADAPTABLE FEATURES 9-5
F. UTILITY SERVICES 9-5
G. SECURITY DEPOSITS 9-6
H. RENT PAYMENTS 9-7
I. FEES AND NONPAYMENT PENALTIES 9-7
J. SCHEDULES OF SPECIAL CHARGES 9-8
K. MODIFICATIONS TO THE LEASE 9-8
L. CANCELLATION OF THE LEASE 9-8
M. INSPECTIONS OF PUBLIC HOUSING UNITS 9-8
N. NO SMOKING POLICY 9-12

CHAPTER 10 - PET POLICY – ELDERLY/DISABLED PROJECTS

A. MANAGEMENT APPROVAL OF PETS 10-1

B. STANDARDS FOR PETS 10-2
C. PETS TEMPORARILY ON THE PREMISES 10-4
D. ADDITIONAL FEES AND DEPOSITS FOR PETS 10-4
E. ALTERATIONS TO UNIT 10-4
F. PET WASTE REMOVAL CHARGE 10-5
G. PET AREA RESTRICTIONS 10-5
H. NOISE 10-5
I. CLEANLINESS REQUIREMENTS 10-5
J. PET CARE 10-6
K. RESPONSIBLE PARTIES 10-6
L. INSPECTIONS 10-6
M. PET RULE VIOLATION NOTICE 10-6
N. NOTICE FOR PET REMOVAL 10-7
O. TERMINATION OF TENANCY 10-7
P. PET REMOVAL 10-7
Q. EMERGENCIES 10-8

CHAPTER 11 - PET POLICY – GENERAL OCCUPANCY/FAMILY PROJECTS

A. MANAGEMENT APPROVAL OF PETS 11-1
B. STANDARDS FOR PETS 11-2
C. PETS TEMPORARILY ON THE PREMISES 11-4
D. ADDITIONAL FEES AND DEPOSITS FOR PETS 11-4
E. ALTERATIONS TO UNIT 11-4
F. PET WASTE REMOVAL CHARGE 11-4
G. PET AREA RESTRICTIONS 11-5
H. NOISE 11-5
I. CLEANLINESS REQUIREMENTS 11-5
J. PET CARE 11-6
K. RESPONSIBLE PARTIES 11-6
L. INSPECTIONS 11-6
M. PET RULE VIOLATION NOTICE 11-6
N. NOTICE FOR PET REMOVAL 11-7
O. TERMINATION OF TENANCY 11-7
P. PET REMOVAL 11-7
Q. EMERGENCIES 11-7

CHAPTER 12 - REEXAMINATIONS

A. ELIGIBILITY FOR CONTINUED OCCUPANCY 12-1
B. ANNUAL REEXAMINATION 12-3
C. STREAMLINED ANNUAL REEXAMINATIONS 12-6
D. REPORTING INTERIM CHANGES 12-6
E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS 12-7
F. OTHER INTERIM REPORTING ISSUES 12-9
G. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) 12-10
H. REPORTING OF CHANGES IN FAMILY COMPOSITION 12-11
I. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF UNIT 12-15
J. CHANGES IN UNIT SIZE 12-15
K. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES 12-16

CHAPTER 13 - LEASE TERMINATIONS

A. TERMINATION BY TENANT 13-1
B. TERMINATION BY PHA 13-1
C. NOTIFICATION REQUIREMENTS 13-4
D. RECORD KEEPING 13-7
E. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS 13-7

CHAPTER 14 - COMPLAINTS, GRIEVANCES AND APPEALS

A. COMPLAINTS 14-1
B. APPEALS BY APPLICANTS 14-1
C. APPEALS BY TENANTS 14-2
D. SCHEDULING AN INFORMAL HEARING 14-3
E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NONCITIZENS" 14-3
F. GRIEVANCE PROCEDURES 14-5

CHAPTER 15 - FAMILY DEBTS TO THE PHA

A. PAYMENT AGREEMENT FOR FAMILIES 15-1
B. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION 15-2
C. WRITING OFF DEBTS 15-3

CHAPTER 16 - COMMUNITY SERVICE

A. REQUIREMENT 16-1
B. EXEMPTIONS 16-1
C. DEFINITIONS OF ENCONOMIC SELF SUFFICIENCY PROGRAM 16-2
D. ANNUAL DETERMINATION 16-2
E. NON COMPLIANCE 16-3
F. PHA RESPONSIBILITY 16-3
G. PHA COMMUNITY SERVICE REQUIREMENT 16-4

CHAPTER 17 - PROGRAM INTEGRITY ADDENDUM

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD .. 17-1
B. STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD 17-2
C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD 17-2
D. THE PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD 17-3
E. HOW THE PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD 17-4
F. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE PHA 17-4
G. PHA-CAUSED ERRORS OR PROGRAM ABUSE 17-4
H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW 17-5
I. EVALUATION OF THE FINDINGS 17-5
J. ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED 17-6

CHAPTER 18 – VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

A. HUD-REQUIRED FORMS IN VAWA 18-1
B. DOCUMENTATION 18-2
C. CONFLICTING DOCUMENTATION 18-2
D. DISCRETION TO REQUIRE NO FORMAL DOCUMENTATION 18-2
E. HUD FORM 5380 18-3
F. HUD FORM 5381 18-9
G. HUD FORM 5382 18-12
H. HUD FORM 5383 18-15

CHAPTER 19 – HOUSING OPPORTUNITIES THROUGH MODERNIZATION ACT

EXHIBIT 19-1

GLOSSARY

I. TERMS USED IN DETERMINING RENT.....GL-1

II. GLOSSARY OF PUBLIC HOUSING TERMS.....GL-15

III. GLOSSARY OF TERMS USED IN THE NON-CITIZEN'S RULE GL-16

PUBLIC HOUSING LEASE..... *i*

ATTACHMENT A –HOUSE RULES ..... *xxii*

ATTACHMENT B – MOLD NOTIFICATION AGREEMENT..... *xxvi*

CHAPTER 1
STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Public Housing Program was created by the U.S. Housing Act of 1937. Administration of the Public Housing Program and the functions and responsibilities of the Public Housing Authority (PHA) staff shall be in compliance with the PHA's Personnel Policy, and this Admissions and Continued Occupancy Policy. The administration of this PHA's housing program will also meet the requirements of the Department of Housing and Urban Development. Such requirements include any Public Housing Regulations, Handbooks, and applicable Notices. All applicable Federal, State and local laws, including Fair Housing Laws and regulations, also apply. Changes in applicable federal laws or regulations shall supersede provisions that conflict with this policy. Federal regulations shall include those found in Volume 24 CFR, Parts 1, 5, 8, 100 and 900-966 (Code of Federal Regulations).

A. HOUSING AUTHORITY MISSION STATEMENT

Housing Authority of the County of San Diego Mission Statement:

"*To provide affordable housing opportunities to low-income and other vulnerable families while promoting a region that is just, sustainable and resilient.*"

HUD Mission Statement:

"*To create strong, sustainable, inclusive communities and quality affordable homes for all.*"

B. LOCAL OBJECTIVES

This Admissions and Continued Occupancy Plan for the Public Housing Program is designed to demonstrate that the PHA is managing its program in a manner that reflects its commitment to improving the quality of housing available to its public, and its capacity to manage that housing in a manner that demonstrates its responsibility to the public trust. In addition, this Admissions and Continued Occupancy Policy is designed to achieve the following objectives:

- To provide improved living conditions for very low and low-income families while maintaining their rent payments at an affordable level.
- To operate a socially and financially sound public housing agency that provides housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards within a drug free, suitable living environment for tenants and their families.

- To lawfully deny the admission of applicants, or the continued occupancy of residents, whose habits and practices reasonably may be expected to adversely affect the health, safety, comfort or welfare of other residents or the physical environment of the neighborhood, or create a danger to PHA employees.
- To attempt to house a tenant body in each development that is composed of families with a broad range of incomes and rent-paying abilities that are representative of the range of incomes of low-income families in the PHA's jurisdiction.
- To provide opportunities for upward mobility for families who desire to achieve self-sufficiency.
- To facilitate the judicious management of the PHA inventory, and to have efficient management of the PHA staff.
- To ensure compliance with Title VI of the Civil Rights Act of 1964 and all other applicable Federal and state and local fair housing laws and regulations so that the admissions and continued occupancy are conducted without regard to race, color, religion, creed, sex, national origin, handicap, familial status, age, ancestry, marital status, sexual orientation, source of income, medical condition, gender, gender identity, gender expression, genetic information or any other unlawful basis.

C. PURPOSE OF THE POLICY

The purpose of this Admissions and Continued Occupancy Policy (ACOP) is to establish guidelines for the Public Housing Authority (PHA) staff to follow in determining eligibility for admission and continued occupancy. These guidelines are governed by the requirements of the Department of Housing and Urban Development (HUD) with latitude for local policies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicants, residents, and the PHA.

The PHA Board of Commissioners must approve the original policy and any significant changes. Required portions of this Plan will be provided to HUD.

PHA Policy

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

D. FAIR HOUSING POLICY

The Housing Authority will fully comply with all federal, state and local nondiscrimination laws, and with rules and regulations governing Fair Housing and equal opportunity in housing and employment.

The HACSD will not deny any family or individual the equal opportunity to apply for or receive assistance under the Public Housing program on the basis of race, color, religion, creed, sex, national origin, handicap, familial status, age, ancestry, marital status, sexual orientation, source

of income, medical condition, gender, gender identity, gender expression, genetic information or any other unlawful basis.

The PHA shall administer the program in compliance with the Violence Against Women Act of 2013 (VAWA) and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162).

To further the HACSD commitment to full compliance with applicable civil rights laws, at the family briefing, the HACSD will provide federal/state/local information regarding unlawful discrimination, and any recourse to those who believe they are victims of a discriminatory act. All applicable Fair Housing information and discrimination complaint forms will be included in the voucher holder's briefing packet and will be available upon request.

All HACSD staff members will be required to attend Fair Housing training. These employees, in the overall commitment to quality customer service, are informed of the importance of affirmatively furthering Fair Housing, providing equal opportunity to all families, and providing reasonable accommodations and modifications for persons with disabilities. Fair Housing posters will be displayed throughout the Housing Authority office, including in the lobby and interview rooms, and in such a manner as to be readable from a wheelchair.

The equal opportunity logo will be used on all outreach materials. To keep current with new developments, staff will attend annual local Fair Housing update training sponsored by HUD, or other organizations.

Except as otherwise provided in 8.21(c)(1), 8.24 (a), 8.25, and 8.31 of the regulations, no individual with disabilities shall be denied the benefits of, or be excluded from participation in programs, or otherwise be subjected to discrimination because the HACSD's facilities are inaccessible to, or unusable by persons with disabilities.

The Housing Authority of the County of San Diego is accessible to persons with disabilities. The California Relay Service provides accessibility for the hearing impaired.

Discrimination Complaints

Applicants or tenant families who believe that they have been subject to unlawful discrimination under laws such as the Fair Housing Act, the Equal Access Final rule, or the Violence Against Women Act (VAWA) may notify the PHA either orally in writing or via email.

Within 10 business days of receiving the complaint, the PHA will provide a written notice to those alleged to have violated the rule. The PHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO). In the case of VAWA, the PHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO’s online complaint form via mail, email, or telephone.

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

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

The PHA will keep a record of all complaints, investigations, notices, and corrective actions.

Nondiscrimination

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

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes").

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The PHA will not discriminate on the basis of 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
- Subject anyone to sexual harassment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

E. SERVICE AND REASONABLE ACCOMMODATIONS AND MODIFICATIONS POLICY

It is the policy of the Housing Authority of the County of San Diego to provide courteous and efficient service to all applicants for housing assistance. It is also the policy of the PHA to provide reasonable accommodations and modifications for persons with disabilities, as well as to provide assistance to those persons with language and literacy barriers.

This policy is applicable to all situations described in this Admissions and Continued Occupancy Policy when a family initiates contact with the PHA, when the PHA initiates contact with a family including when a family applies, and when the PHA schedules or reschedules appointments of any kind.

It is the policy of this PHA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to the families within our jurisdiction.

The PHA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodations and modifications so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made known by including notices on PHA forms and letters to all families, and the disability and disability-related need for all requests will be verified (unless the disability and related need are readily apparent) so that the PHA can properly accommodate the need presented by the disability.

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

Federal Americans with Disabilities Act of 1990 (see Exhibit 1-1)

With respect to an individual, the term "disability," as defined by the 1990 Act means:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual; or A record of such impairment; or Being regarded as having such impairment.

Reasonableness/Undue Burden

Requests for reasonable accommodations and modifications from persons with disabilities will be granted as long as granting the accommodation or modification does not create an undue financial and administrative burden for the PHA or fundamentally alter the nature of the PHA's programs.

In determining whether accommodation or modification would create an undue burden, the following guidelines will apply:

- The nature and cost of the accommodation or modification needed;
- The overall current financial resources of the facility or facilities involved in the provision of the reasonable accommodation or modification;

- The number of persons currently employed at such facility, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of granting the accommodation or modification; and
- Any other factors that affect whether granting the request would pose an undue burden on the facility or facilities involved. Before denying any request for accommodation or modification, PHA staff may seek input from County Counsel.

Verification of a Request for Accommodation or Modification

All requests for accommodation or modification of a unit will require written verification of disability and disability-related need (unless the disability and related need are readily apparent).

Verification may be made by a doctor or other medical professional, a peer support group, a non-medical service agency, a reliable third party who is in a position to know about the individual's disability and disability-related need or by the individual himself or herself (e.g., proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance Benefits) or a credible statement by the individual. *(Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act, May 17, 2004; Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Modifications Under the Fair Housing Act, March 5, 2008.)*

Requests for reasonable accommodations or modifications from persons with disabilities will be granted upon provision of the above-referenced verification.

If a reasonable accommodation is approved on a temporary basis, the PHA will require an annual recertification to verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability continue to require the requested accommodation. If a reasonable accommodation is approved on a permanent basis, an annual recertification of the disability will not be required. A required annual recertification of the disability will be conducted in conjunction with the regularly scheduled annual reexamination of income and family composition.

Reasonable Accommodation

A reasonable accommodation is a change or exception to the PHA's rules, policies, practices or services that is necessary to afford a person with disabilities full and equal access to the PHA's programs or services and/or full and equal opportunity to use and enjoy the PHA's housing.

Reasonable accommodations will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability. These requests must be made at least seven days in advance.

All PHA mailings will be made available in an accessible format upon request, as a reasonable accommodation as long as granting the accommodation does not create an "undue financial and administrative burden" for the PHA.

Assistance Animals

There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (i.e., support animals). Assistance animals including service and support animals, are not pets, and thus, are not subject to the PHA's pet policies described in Chapters 10 and 11.

Fair Housing and Equal Opportunity (FHEO) Notice 2020-01 states PHAs should initially follow the Department of Justice (DOJ) analysis to assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA). Under the ADA, a service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

HACSD will use the following questions to determine if an animal is a service animal under the ADA

- Is the animal a dog? If not, the animal is not a service animal but may be another type of assistance animal for which an accommodation is needed (support animal).
- Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of the individual with a disability? If yes, further inquiries are inappropriate because the animal is a service animal. If not, it is advisable that the PHA limit its inquiries to the following two questions: (1) Is the animal required because of the disability? and (2) What work or task has the animal been trained to perform?
- If the answer to question (1) is "yes" and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable.

If the answer to either question is "no," the animal does not qualify as a service animal but may be a support animal.

A service animal will be permitted in all areas of the facility where members of the public are allowed.

Support Animals (Assistance Animals other than Service Animals)

If the animal does not qualify as a service animal, the PHA must next determine whether the animal would qualify as a support animal (other type of assistance animal). The Housing Authority of the County of San Diego will use the guidance provided in 2 Cal. Code of Regulations to make this determination.

The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be

eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

Care and Handling

- Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals.
- Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.
- Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents
- When a resident's care or handling of an assistance animal violates these policies, the 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 assistance animal.

Medical Marijuana

The use of medical marijuana is strictly prohibited at all public housing properties owned by the Housing Authority of the County of San Diego. The use of medical marijuana by public housing residents and/or their guests will result in the termination of the participant from the public housing program regardless of the date of entry into the program.

Reasonable Accommodation (§5.403) (HUD General Counsel Opinion on Medical Marijuana, 1/20/2011)

Federal and state nondiscrimination laws do not require housing authorities to accommodate requests by current or prospective residents with disabilities to use medical marijuana. The PHA may not permit the use of medical marijuana as a reasonable accommodation because such accommodations are not reasonable under the Fair Housing Act and would constitute a fundamental alteration in the nature of the operations of the program (*HUD General Counsel Opinion on Medical Marijuana, 1/20/2011, pgs1-2)*.

Medical Marijuana Use as a Reasonable Accommodation

Person(s) seeking a reasonable accommodation to allow the use of medical marijuana are not "individuals with a disability" under Section 504 of the Rehabilitation Act of 1973 or the ADA and therefore do not qualify for a reasonable accommodation to allow the use of medical marijuana. Furthermore, because such requests are tantamount to requests to become an illegal

drug user, HACSD is prohibited from granting such a request *(HUD General Counsel Opinion on Medical Marijuana, 1/20/2011, pg. 6)*.

Recertification by Mail

The PHA may conduct its annual and interim recertifications through the mail. However, the PHA may at any time require the family to attend face-to-face interviews.

The mail-in packet will include notice to the family of the PHA's deadline for returning the completed forms to the PHA.

Home Visits

When requested and where the need for reasonable accommodation has been established, the PHA will perform home visits to conduct annual and interim recertifications.

Other Accommodations

The PHA will consider and respond to all other requests for accommodations under the guidelines set forth above.

The Housing Authority will refer families to organizations that provide assistance for hearing- and sight-impaired persons, when needed. The PHA has a TDDY telephone number for the hearing-impaired and will assist vision-impaired persons with completion of the necessary forms.

Families will be offered an accessible unit upon request by the family, when an accessible unit is available.

In the event the PHA is unable to grant the requested accommodation because it poses an undue burden or fundamentally alters the nature of the PHA's program, the PHA will refer families who have persons with disabilities to agencies in the community that offer services to persons with disabilities. The PHA will also engage in an interactive process with the family to see if there is some other reasonable accommodation that the PHA can provide that would meet the family's disability-related needs.

Reasonable Modification

A modification is a physical change to the housing unit or common areas that is necessary to afford a person with a disability full and equal use and enjoyment of the housing.

Pursuant to Section 504 of the Rehabilitation Act of 1973, the PHA will make reasonable modifications to the housing unit and/or common areas, upon request of families who have a person with a disability. The PHA will be responsible to make and pay for the modification unless doing so would pose an undue financial and administrative burden.

If the modification is deemed to pose an undue burden, the PHA will engage in an interactive process with the family to see if there is some other modification (or accommodation) that would meet the family's disability-related needs.

F. TRANSLATION OF DOCUMENTS

In determining whether it is feasible to translate documents into other languages, the PHA will consider the following factors:

The availability of local organizations to provide translation services to non-English speaking families.

The PHA has bilingual staff to translate documents and has evaluated its programs and determined that given the number of Limited English Proficiency clientele, additional translation services are not necessary.

G. LANGUAGE ASSISTANCE

The Housing Authority of the County of San Diego (HACSD) will refer persons with literacy barriers to appropriate community literacy programs for assistance with the completion of the application and certification process.

The HACSD will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote hearings, however, the PHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the HACSD. HACSD, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the PHA will not rely on the minor to serve as the interpreter.

Public notices will also be made available in the region's threshold languages according to County of San Diego Policy A-139

H. PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS) OBJECTIVES

[24 CFR 901 & 902]

The PHA operates its public housing program with efficiency and can demonstrate to HUD or independent auditors that the PHA is using its resources in a manner that reflects its commitment to quality and service. The PHA policies and practices are consistent with the new Public Housing Assessment System (PHAS) outlined in the 24 CFR Parts 901 and 902 final published regulations.

The PHA is continuously assessing its program and consistently strives to make improvements. The PHA acknowledges that its performance ratings are important to sustaining its capacity to maintain flexibility and authority. The PHA intends to diligently manage its current program operations and continuously make efforts to be in full compliance with PHAS. The policies and procedures of this program are established so that the standards set forth by PHAS are

demonstrated and can be objectively reviewed by an auditor whose purpose is to evaluate performance.

I. FAMILY OUTREACH

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

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

J. RECORD RETENTION AND MANAGEMENT

The PHA will keep the last three years of the Form HUD-50058 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination.

The PHA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for three years from the end of participation date.

In addition, the PHA will keep the following records for at least three years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation 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, the equal access final rule, or VAWA
- 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

If a hearing to establish a family's citizenship status is held, longer retention requirements may apply for some types of documents.

All applicant and participant information will be kept in a secure location and access will be limited to 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.

K. PRIVACY RIGHTS

Applicants and participants, including all adults in their households, are required to sign the form HUD-9886, "Authorization for Release of Information and Privacy Act Notice." This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

The PHA's policy regarding release of information is in accordance with State and local laws that may restrict the release of family information. Any and all information regarding a person's disability will be kept confidential. The information will be used only to determine the need for a reasonable accommodation or modification or a live- in aide.

The PHA's practices and procedures are designed to safeguard the privacy of applicants and tenants. The PHA will safeguard all Upfront Income Verification (UIV) information in compliance with the applicable regulations and all staff with computer access to the information will have signed User Agreements on file. The UIV information obtained through the Enterprise Income Verification (EIV) system will not be released to any party other than the party the information is pertaining to.

Files will never be left unattended outside the locked office or placed in common areas.

PHA staff will not discuss or access family information contained in files unless the family has given written consent and/or there is a business reason to do so. Staff will be required to disclose whether s/he has relatives living in Public Housing. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

L. POSTING OF REQUIRED INFORMATION

The PHA will have available at the central office the following information:

- Statement of policies and procedures governing Admissions and Continued Occupancy Policy (ACOP) or a notice of where the policy is available
- The PHA 5-year Plan and PHA Annual Plan Information on application taking
- Directory of the PHA's housing sites including names, address of offices and office hours
- at each facility.
- Income limits for Admission
- Current schedule of routine maintenance charges
- A copy of the lease
- The PHA's grievance procedures A Fair Housing Poster
- An Equal Opportunity in Employment poster Current Resident Notices
- Required public notices

Site developments will maintain a bulletin board in a conspicuous place, which will contain:

- Tenant Selection policies (960.202 and 960.203)
- Information on application taking Income limits for admission
- Current schedule of maintenance charges Copy of lease
- PHA's grievance procedures Fair Housing poster
- Equal Opportunity in Employment poster Current Resident Notices
- Fraud Hotline Information Mission Statement
- Information on Screening and Eviction for Drug Abuse and Other Criminal Activity.

M. REFERRAL OF PUBLIC HOUSING RESIDENTS TO THE PHA'S SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

To enhance the PHA Public Housing Program's operational and fiscal stability while minimizing the impact on the PHA's Section 8 Housing Choice Voucher (HCV) Program's waiting list, a number of Section 8 HCV Program waiting list super preferences were established for the PHA's Public Housing residents in the following circumstances: (1) The Public Housing administrator has determined, after a careful review of the evidence and consideration of alternative options, that a Public Housing resident family must move because a family member is the victim of domestic violence, dating violence, sexual assault, or stalking and the PHA has no alternate Public Housing units appropriate for the family; (2) The Public Housing administrator has determined, after a careful review of the evidence, professional recommendations, and alternative options, that a Public Housing family must be relocated for a significant period of time in order to make repairs to the Public Housing family's Public Housing unit and the PHA has no alternate public housing units available to the family.

If the Public Housing administrator, after a review of all information, recommendations, and evidence, determines that a Public Housing family must move for the above reasons, the Public Housing administrator will prepare a written referral to the PHA's Section 8 HCV Program waiting list. In order for a referral to be issued, the family must be an extremely low, very-low, or low-income family and must meet all other eligibility requirements for admission to the Section 8 HCV Program.

N. TERMINOLOGY

The Housing Authority of the County of San Diego is referred to as "PHA" or "Housing Authority" or "HA" or "HACSD" throughout this document.

"Family" is used interchangeably with "Applicant," "Resident" or "Participant" and can refer to a single-person family.

"Tenant" is used to refer to participants in terms of their relation as a lessee to the PHA as the landlord.

"Landlord" refers to the PHA.

"Disability" is used where "handicap" was formerly used.

"Noncitizens Rule" refers to the regulation effective June 19, 1995, restricting assistance to U.S. citizens and eligible immigrants.

See Glossary for other terminology.

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

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

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase "physical or mental impairment" includes:

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

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

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

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

The definition of a person with disabilities does not include:

Current illegal drug users

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

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

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

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

Chapter 2

ELIGIBILITY FOR ADMISSION

INTRODUCTION

This Chapter defines both HUD's and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the qualifications of families who apply. The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the PHA pertaining to their eligibility.

A. QUALIFICATION FOR ADMISSION

It is the PHA's policy to only admit qualified applicants. A qualified applicant meets the following criteria:

- In accordance with this Chapter, meets the definition of a family.
- Heads a household where at least one member of the household is either a citizen or eligible non-citizen. [24 CFR Part 5, Subpart E]
- Has an annual income at the time of admission that is at or below HUD-specified income limits for occupancy and posted separately in the PHA offices or on the PHA website. To be income eligible, a family must not have an annual income which does not exceed 80% of the median income for the area, adjusted for family size. (See also Income Targeting requirements in Chapter 4)
- Provides a Social Security number for all family members, age 6 or older, or will provide written certification that they do not have Social Security numbers.
- Consents to the PHA's collection and use of family information as provided in applicable consent forms.
- Meets or exceeds the tenant Selection and Suitability Criteria as set forth in this policy.
- Not currently receiving a duplicative subsidy.

Timing for the Verification of Qualifying Factors

The qualifying factors of eligibility will not be verified until the family is in a position on the waiting list to be offered a housing unit.

B. FAMILY COMPOSITION

[24 CFR 5.403 and HUD-50058 IB, p. 13]

Definition of 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 actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, disabled person, near-elderly person, or any other single person.
- 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.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

PHA Policy

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

The PHA includes a registered domestic partnership, as recognized by state law, in the definition and all references to marriage.

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.

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.

Occupancy by Police Officers

In order to provide an increased sense of security for public housing residents, the PHA may allow public housing units to be occupied by police officers.

Police officers will not be required to be income eligible to qualify for admission to the PHA's public housing program.

Head of Household

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent and ensuring that the family fulfills all of its responsibilities under the program, and has the legal capacity to enter into a lease under State/local law.

Emancipated minors who qualify under State law will be recognized as head of household if there is a court order recognizing them as an emancipated minor.

Persons who are married are legally recognized as adults under State law.

Spouse of Head of Household

Spouse means the husband or wife of the head of household. Spouse also includes a registered domestic partner, as defined by state law.

For proper application of the Non-citizen Rule, the definition of spouse is: the marriage partner whom, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads of household.

Co-head of Household

An individual in the household who is equally responsible for the lease with the Head of Household. A household may have either a spouse or co-head, but not both. A co-head never qualifies as a dependent. A significant other is a household member who is identified as the "boyfriend," "girlfriend," "fiancée," or by other similar terms that indicate the person's significant relationship to the head of household. At the time of admission to the program/household, the family may request that another adult family member be designated co-head. Once a family member is designated co-head that designation does not change unless someone is subsequently designated a spouse, the co-head moves out of the household, or the co-head becomes the head of household. Minors who are emancipated under state law may be designated as a co-head.

Other Adult

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

Dependent

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

Joint Custody of Dependents

PHA Policy:

Children, who are subject to a joint custody agreement but live with the applicant/participant more than 50 percent of the time, will be considered members of the household. More than 50 percent of the time is 183 or more cumulative days during the year. In cases where separated parents are trying to claim the child as a member of the household, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent. In a joint custody arrangement, if the minor is in the household less than six months per year, the minor will be considered to be an eligible visitor and not a family member.

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person.

Persons with Disabilities

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

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

Disabled Family

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

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 document.

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]. The term foster child is not specifically defined by the regulations.

Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant 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.

PHA Policy

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.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards.

Documentation must be submitted to verify the identity of the foster children/adults, to confirm they are foster children/adults, to confirm the foster children/adults are legal U.S. residents and the benefits are paid on behalf of the foster children/adults.

Foster children/adults are not subject to non-citizen rule requirements, but the placement agency must confirm they are legal U.S. residents.

A streamlined documentation process is acceptable for foster children/adults expected to be in the household for a short period of time. Foster children/adults expected to be in the household at least one year are considered a part of the family in determining the subsidy standards and income limits.

The criminal history of adult foster children must be verified prior to admission to the household and whenever the criminal history of adult family members is reviewed. Adult foster children must sign release of information forms so that criminal history can be verified.

Foster children/adults may not be considered remaining members of the tenant family.

Live-in Aides

- A Family may include a live-in aide provided that such live-in aide:
- Is determined by the PHA to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with disabilities,
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

A live-in aide is not considered to be an assisted family member and has no rights or benefits under the program:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-citizen Rule requirements.
- Live-in aides may not be considered as a remaining member of the tenant family.
- A live-in aide may not become a family member for at least one year after leaving the household.
- A family member may not become a live-in aide for at least one year after leaving the household

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

Family members of a live-in attendant may also reside in the unit, providing doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the family member(s) does not overcrowd the unit.

A live-in aide may only reside in the unit with the approval of the PHA. Written verification will be required from a doctor or other medical professional or other credible source as outlined in the HUD/Department of Justice Joint Statement: Reasonable Accommodations under the Fair Housing Act (May 2004). The verification provider must certify that a live-in aide is essential for the care and well-being of the family member who is elderly, near elderly (50-61) or disabled, the number of hours a day this care is needed, and that this care cannot be provided any other way.

Verification of the need for a live-in aide must include the hours the care will be provided.

The PHA shall make the live-in aide subject to the agency's normal non-financial screening criteria.

The PHA will require the live-in aide to execute a lease rider agreeing to abide by the terms and conditions of occupancy set forth in the lease agreement. If the live-in aide violates provisions of the lease rider, the PHA may take action against the live-in aide separate from action against the assisted family.

If the live-in aides or their family members participate in drug-related or criminal activity, the PHA will rescind the aide's right to occupy the unit. When the agency takes such action against the live-in aide, the aide is not entitled to the grievance hearing process of the agency. When the agency takes such action, the resident will be given an opportunity to replace the live-in aide, following the procedure outlined above.

The PHA has the right to disapprove a request for a live-in aide based on the "Other Eligibility Criteria" described in this Chapter.

A live-in aide is not eligible to be admitted to the household as a family member until s/he has been out of the unit for at least one year. Conversely, a family member may not become a live-in aide until s/he has been out of the unit for at least one year, as well.

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 in the last three years;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

C. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, PIH] Notice 2018-24

Applicants:

Each applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the and documentation necessary to verify the SSN as a condition of eligibility for all family members, who have been issued a social security number. If a child under age six has been added to an applicant family within the six months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission.

Assistance will be denied if the applicant does not meet the applicable SSN disclosure, documentation, and verification requirements. However, if the family is otherwise eligible to participate in the program, the family may maintain his/her position on the waiting list for 180 days.

Participants:

Each participant, except those age 62 or older as of January 31, 2010, whose initial determination of eligibility began before January 31, 2010, must provide a complete and accurate social security number and documentation necessary to verify the SSN, as a condition of continued eligibility for all family members, regardless of age, who have been issued a social security number, at their next interim or regularly scheduled reexamination or recertification of family composition or income if the participant has:

- not previously disclosed a SSN;
- previously disclosed a SSN that HUD or the SSA determined was invalid; or
- been issued a new SSN.

The family's assistance will be terminated if the participant does not meet the applicable SSN disclosure, documentation, and verification requirements.

The HACSD may defer termination and grant an extension of additional 90 calendar days to disclose a SSN, but only if the HACSD, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant; and there is a likelihood that the participant will be able to disclose a SSN by the deadline. If, upon expiration of the provided time period, the participant fails to produce a SSN, the family's assistance will be terminated.

Verification of Social Security Numbers:

Verification of social security numbers will be done through a valid social security card issued by the Social Security Administration. If a family member cannot produce a social security card, the documents listed below may be accepted for verification. The family may be required to certify in writing that the document(s) submitted in lieu of the social security card is/are complete and accurate:

- 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 HACSD may reject documentation of the SSN provided if:

- The document is not an original document
- The original document has been altered, mutilated, or not legible
- The document appears to be a forged document, i.e. does not appear to be authentic.

Additions of New Household Members:

New family members, regardless of age, who have an assigned SSN, will be required to produce their valid social security cards or other acceptable documentation, as outlined above. This information must be provided at the time of the request, or at the time the HACSD adds the new family members to the household. If the family is unable to provide the required documentation of the SSN, the HACSD will not add the new household member until the family provides such documentation.

New family members under the age of six who have not been assigned a SSN will be required to produce their valid social security cards or other acceptable documentation, as outlined above, within 90 calendar days of the child being added to the household. The HACSD may grant an extension of one additional 90-day period to comply with the SSN disclosure and documentation requirement if the HACSD, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the family. The child will be included as part of the assisted household and entitled to all benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. If, upon expiration of the provided time period, the family has not complied with the SSN disclosure and documentation requirements, the family's assistance will be terminated.

The requirements of this section apply to applicants and participants as described in this section, except that this section is inapplicable to individuals who do not contend eligible immigration status.

If the family member states s/he has not been issued a social security number by the SSA, the family member will be required to make such declaration in writing and under penalties of perjury.

D. FAMILY CONSENT TO RELEASE OF INFORMATION

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

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

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS

In order to receive assistance, a family member must be a U.S. citizen, U.S national, or non-citizens with eligible immigration status. Individuals may elect not to contend that they have eligible immigration status.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status.

Eligible Non-Citizens. Family members declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status. 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.

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

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen, national, or eligible non-citizen. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their income-based assistance (TTP) will be pro-rated and that they may request a hearing if they contest this determination. If such a family chooses flat rent, the flat rent will not be pro-rated if the flat rent is greater than the Public Housing Maximum Rent. If the Public Housing Maximum Rent is greater than the flat rent, and the family chooses flat rent, the flat rent will be pro-rated.

Non-eligible members. Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students defined by HUD (24 CFR 5.522) are not eligible for assistance. 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.

The PHA will establish and verify eligibility no later than the date of the family's annual reexamination following October 21, 1998. For new applicants or additions to the household, the PHA will verify the status of the family at the time other eligibility factors are determined.

No individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of at least one individual or family member.

F. OTHER ELIGIBILITY CRITERIA

All applicants will be processed in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate ability to comply with essential provisions of the lease as summarized below.

All applicants must demonstrate through an assessment of current and past behavior the ability:

- to pay rent and other charges as required by the lease in a timely manner;
- to care for and avoid damaging the unit and common areas;
- to use facilities, appliances and equipment in a reasonable way;
- to create no health or safety hazards, and to report maintenance needs in a timely manner;
- not to interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others;
- not to engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity on or off the PHA premises;
- not to have ever been convicted of manufacturing or producing methamphetamine, also known as "speed," on the premises of assisted housing;
- not to contain a household member subject to lifetime sex offender registration requirement under a State Sex offender registration program;
- to comply with necessary and reasonable rules and program requirements of HUD and the PHA; and,
- to comply with local health and safety codes.

Denial of Admission for Previous Debts to This or Any Other PHA

Previous outstanding debts to this PHA or any PHA resulting from a previous tenancy in the public housing or Section 8 program must be paid in full prior to admission. No Payment Agreement will be accepted.

Either spouse is responsible for the entire debt incurred as a previous PHA tenant. Children of the head or spouse who had incurred a debt to the PHA will not be held responsible for the parent's previous debt.

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

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

G. DENIAL OF ADMISSION FOR DRUG-RELATED AND/OR OTHER CRIMINAL ACTIVITY

Overview

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

Administration

All screening procedures shall be administered fairly and in such a way as not to discriminate on the basis of race, color, religion, creed, sex, national origin, handicap, familial status, age, ancestry, marital status, sexual orientation, source of income, medical condition, gender, gender identity, gender expression, genetic information or any other unlawful basis, including whether or not a qualified applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and not to violate the right to privacy.

To the maximum extent possible, the PHA will involve other community and governmental entities in the promotion and enforcement of this policy.

This policy will be readily available to applicants and tenants upon request.

HUD Definitions

"Drug-related criminal activity" is the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use a controlled substance (including Medical and Recreational Marijuana) (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

Drug-related criminal activity means *on or off the* premises, *not just on or near the* premises.

"Covered person," means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

"Criminal activity" includes any criminal activity that threatens the health, safety or right to peaceful enjoyment of the resident's public housing premises by other residents or employees of the PHA.

"Drug" means a controlled substance (including Medical and Recreational Marijuana) as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802).

"Guest" for purposes of this Chapter, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

"Household" means the family and PHA-approved live-in aide.

"Other person under the tenant's control," for the purposes of the definition of "covered person," means that the person, although not staying as a guest (as defined above) in the unit is, or was at the time of the activity in question, on the premises (as defined in this section) 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.

"Premises" means the building or complex or development in which the public housing dwelling unit is located, including common areas and grounds.

"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.

Screening for Drug Abuse and Other Criminal Activity

In an effort to prevent drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or the right to peaceful enjoyment of the premises by other residents, the PHA will endeavor to screen applicants as thoroughly and fairly as possible.

If in the past the PHA initiated a lease termination, which may or may not have resulted in eviction for any reason cited under the Screening and Eviction for Drug Abuse and Other Criminal Activity Notice, for a family, as a prior resident of public housing, the PHA shall have the discretion to consider all circumstances of the case regarding the extent of participation by non-involved family members. A victim of domestic violence, dating violence, sexual assault, or stalking will not be disqualified from admission for criminal history or other violations due to acts of violence committed by another.

Initial screening will be limited to routine inquiries of the family and any other information provided to the PHA regarding this matter. The inquiries will be standardized and directed to all applicants by inclusion in the application form.

Upon final determination of eligibility, the PHA will check law enforcement records for criminal history for all adult members of the applicant household prior to final determination of eligibility and may require adult household members to be fingerprinted in order to obtain their Department of Justice criminal history.

Law Enforcement Records

The PHA will check criminal history for all applicants who are 18 years of age or older to determine whether any member of the family has engaged in violent or drug-related criminal activity.

Verification of any past activity will be done prior to final eligibility and will include a check of conviction records.

Mandatory Denial of Admission

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

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

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).
    - The PHA may admit an otherwise-eligible family, if after considering the individual circumstances of the household, the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA; full restitution, including the cost of eviction, was made to the landlord, if lease violations occurred as a result of the criminal activity; or the person who committed the crime is no longer living in the household.
- The PHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

    PHA Policy

    Currently engaged in is defined as any use of illegal drugs as of the time the full application is signed and dated.
- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

    PHA Policy

    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 record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in

disqualifying criminal activity. The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

The PHA will deny program admission if there has been a pattern of alcohol abuse, which involves four or more serious incidents during the previous 12 months. It is considered "serious" if the party is driving while intoxicated or if the party is arrested or detained due to public intoxication.

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

Live-in aides or foster adults/children who are found to be subject to a state sex-offender registration requirement of a state sex-offender registration program or who have currently or previously engaged in any criminal activities as described above, or other activities that may pose a risk will be disapproved for occupancy of the assisted unit.

Other Criminal Activity

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

PHA Policy:

If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past three years, beginning on the later of the dates of the act, arrest, conviction, eviction, or termination from a federally-assisted program and ending on the date the family was selected from the waiting list, the family will be denied assistance.

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]. The term "illegal drug" includes medical and recreational marijuana.

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

Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the HACSD (including an HACSD employee or an HACSD contractor, subcontractor, or agent).

Criminal activity involving crimes of actual or threatened violence to persons or property, or a history of other criminal acts, conduct or behavior which would adversely affect the health, safety, or welfare of other residents.

Applicants and/or their household members who have been convicted of criminal sexual conduct, including but not limited to sexual assault, incest, statutory sexual seduction, open and gross lewdness, or child abuse, and are required by law to register as a sex offender will be prohibited from participation in the public housing program.

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

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.

The PHA may waive or reduce the prohibition period depending on the severity of the incident and if the behavior was caused by a disability. However, the PHA will never waive the prohibition period if there was physical violence, the threat of physical violence, or if more than one incident occurred.

A victim of domestic violence, dating violence, sexual assault, or stalking will not be disqualified from admission for criminal history or other violations due to acts committed by another, providing the perpetrator of said acts will be excluded from the household.

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

Any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three years.

A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

Before making its decision to deny assistance, the PHA will consider program and individual factors. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

Evidence

The PHA must have evidence of the violation.

"Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

Preponderance of evidence is not be determined by the number of witnesses, but by the greater weight of all evidence.

"Credible evidence" may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible

evidence includes documentation of drug raids or arrest warrants, evidence gathered by PHA inspectors and/or investigators, and evidence gathered from the PHA Hotline.

The PHA may pursue fact-finding efforts as needed to obtain credible evidence.

Consideration of Circumstances

HUD authorizes, but does not require, the PHA to consider all relevant circumstances when deciding whether to deny or terminate a family's assistance, except in the situations for which denial or termination of assistance is mandatory.

PHA Policy

The PHA will consider the following facts and circumstances prior to making a decision to deny or terminate an individual, except in cases for which denial or termination is mandatory:

- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family
- The seriousness of the case and the evidence of the criminal conduct, especially with respect to how it would affect other residents' safety or property
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor, a person with disabilities or a victim of domestic violence, dating violence, sexual assault or stalking
- Mitigating circumstances related to the disability of a family member
- The effects of the denial or termination of assistance on other family members who were not involved
- 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.
- Evidence that household member has successfully completed a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully. The HACSD will require the evidence to be provided.
- A record of arrest(s) will not be used as the basis for denial or termination, an arrest may, however, trigger an investigation to determine whether the participant actually engages 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;
- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

An applicant, a member of an applicant or participant household or an addition to the participant's household, including a live-in aide, will be notified and provided an opportunity to dispute the accuracy and relevance of a criminal record before admission of assistance is denied or participation terminated on the basis of such a record. The PHA will allow the family to make an appointment to review a copy of the criminal record upon family request. The family may also submit any other written documentation to be considered in review of the circumstances surrounding the criminal record. Such documentation may include items such as: statements from the member, witnesses, or character witnesses; recommendations from law enforcement personnel such as probation/parole officers, health providers, or others familiar with the case; or evidence of rehabilitation or change in circumstances.

In cases of denial or termination for violent criminal activity or drug related conduct, if a household submits documentation, a designated committee will review the information and make a recommendation whether or not the household should be denied or terminated. In appropriate circumstances the family may be offered a stipulated agreement in lieu of a denial or termination. The stipulated agreement would contain the terms and conditions of allowing the family to begin or continue to receive assistance. Failure to enter into, or comply with the agreement, shall result in denial or termination of the household.

If the household does not dispute the accuracy or relevance of the information for the denial or termination or upon committee recommendation, a notice will be mailed to the household informing them of the denial or termination. The household will be afforded the right to an Informal Review in cases of denial and an Informal Hearing in cases of termination according to the PHA's hearing procedures outlined in the Chapter on Complaints, Grievances and Appeals.

Obtaining Information from Drug Abuse Treatment Centers

The PHA will inquire of all applicants whether they are currently using or in the past have ever engaged in the illegal use of a controlled substance.

The PHA will inquire of all applicants who respond in the affirmative whether they are currently receiving treatment or have ever received treatment at a drug abuse treatment facility.

All applicants who respond in the affirmative will be required to sign a written consent authorizing the PHA to receive information from the drug abuse treatment facility stating only whether the facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

The authorization will be sent to the drug abuse treatment facility with the PHA postage paid return addressed envelope addressed to the attention of the Chief.

The PHA will maintain such information received from a drug abuse treatment facility in a manner that respects its confidentiality.

Such confidential information will be reviewed by the public housing manager or designee who will make a decision as to the outcome of the review.

Such confidential information will not be misused or improperly disseminated and will be destroyed not later than five business days after the date on which the PHA gives final approval for admission.

If the application is denied, the information will be destroyed immediately following the date on which the statute of limitations for commencement of a civil action from the applicant based upon the denial of admission has expired.

Confidentiality of Information on Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Information provided regarding victims of domestic violence, dating violence, sexual assault, or stalking will be maintained in a strict confidential manner and will not be recorded on a shared database.

PHA Policy

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

Confidentiality of Criminal Records

The PHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed by the PHA staff for screening for criminal behavior, will be housed in a secure area.

If the family is determined eligible for initial or continued assistance, the PHA's copy of the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination or immediately upon completion of the informal review or hearing and a final decision has been made.

The PHA will document in the family's file that the family was denied admission or the tenancy was terminated due to findings in the Criminal History Report.

Disclosure of Criminal Records to Family

Before the PHA takes any adverse action based on a criminal conviction record, the applicant will be allowed to view a copy of the criminal record and given an opportunity to dispute the record. Applicants will be provided an opportunity to dispute the record at an informal hearing. Tenants may contest such records at the grievance hearing or court hearing in the case of evictions.

Hearings

(See Chapter titled "Complaints, Grievances and Appeals.")

If information is revealed that would cause the PHA to deny admission to the household and the person disputes the information, s/he shall be given an opportunity for an informal hearing according to the PHA's hearing procedures outlined in the Chapter on Complaints, Grievances and Appeals.

H. SCREENING FOR ELIGIBILITY [24 CFR 960.203, 960.204, 960.205]

In developing its admission policies, the aim of the PHA is to have residents composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families and families with serious social problems. Therefore, it is the policy of the PHA to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood, or on the quality of life for its residents.

The PHA will conduct a detailed interview of all applicants. The interview form will contain questions designed to evaluate the qualifications of applicants to meet the essential requirements of tenancy. Answers will be subject to third party verification.

An applicant's intentional misrepresentation of any information related to eligibility, award of preference for admission, housing history, allowances, family composition or rent will result in denial of admission.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of the lease, either all or with assistance that they can demonstrate that they have or will have at the time of admission. (24 CFR 8.3, Definition: Qualified Individual with Handicaps) The availability of assistance is subject to verification by the PHA.

As a part of the final eligibility determination, the PHA will screen each applicant household to assess their suitability as renters.

The PHA will complete a rental history check on all applicants. The PHA will complete a credit check on all applicants.

The PHA shall rely upon sources of information which may include, but not be limited to, PHA records, personal interviews with the applicant or tenant, interviews with previous landlords, employers, family social workers, parole officers, criminal and court records, clinics, physicians or the police department, and home visits for persons who have had negative landlord reference(s) for poor housekeeping habits.

This will be done in order to determine whether the individual attributes, prior conduct, and behavior of a particular applicant is likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare.

The PHA may complete a home visit at the current residence of all applicants who have had landlord verifications returned to the PHA with unfavorable comments concerning their housekeeping habits. Applicants shall have at least two working days advance written notice of home visits.

Factors to be considered in the screening are housekeeping habits, rent paying habits, prior history as a tenant, criminal records, the ability of the applicant to maintain the responsibilities of tenancy, and whether the conduct of the applicant in present or prior housing has been such that admission to the program would adversely affect the health, safety or welfare of other residents, or the physical environment, or the financial stability of the project.

The PHA's examination of relevant information pertaining to past and current habits or practices will include, but is not limited to, an assessment of:

- The applicant's past performance in meeting financial obligations, especially rent.
- Eviction or a record of disturbance of neighbors sufficient to warrant a police call, destruction of property, or living or housekeeping habits at present or prior residences which may adversely affect the health, safety, or welfare of other tenants or neighbors.
- Any history of criminal activity on the part of <u>any</u> applicant family member involving criminal acts, including drug-related criminal activity.
- Any history or evidence of acts of violence on the part of an individual, or conduct constituting a danger to peaceful occupancy by neighbors.
- Any history of initiating threats or behaving in a manner indicating intent to assault employees or other tenants.
- Any history of alcohol or substance abuse that would threaten the health, welfare, or right to peaceful enjoyment of the premises by other residents.

The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by the PHA. The information to be considered in the screening process

shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application in present and prior housing.

The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare. [24CFR 960.203(c)]

Adversely affect the physical environment or financial stability of the project. [24CFR 960.203(c)]

Violate the terms and conditions of the lease. [24CFR 960.203(c)]

An applicant who was evicted or violated a lease agreement due to being the victim of domestic violence, dating violence, sexual assault, or stalking will not be disqualified for prior criminal history.

Require services from PHA staff that would alter the fundamental nature of the PHA's program. [24 CFR 8.3]

Rent Paying Habits

The PHA will examine any Housing Authority records from a prior tenancy and will request written references from the applicant's current landlord and may request written references from former landlords for up to the past 3 years.

Based upon these verifications, the PHA will determine if the applicant was chronically late with rent payments, was evicted at any time during the past 3 years for nonpayment of rent, or had other legal action initiated against him/her for debts owed. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

Applicants will not be considered to have a poor credit history if they were late paying rent because they provide evidence they were legally withholding rent due to substandard housing conditions. Applicants will not be considered to have a poor credit history if they were delinquent on the payments on medical bills. Applicants will not be considered to have a poor credit history if their delinquencies on credit accounts occurred more than two years before.

The lack of credit history will not disqualify a family, but a poor credit history may, with the exceptions noted above.

Where past rent paying ability cannot be documented, the PHA will check with the utility company(s) to determine whether the family has been current and timely on their payments.

Screening Applicants Who Claim Mitigating Circumstances

Mitigating circumstances are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified would indicate both: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer

in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one, justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into the PHA's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, the PHA shall have the right to written verification of the change in disability, medical condition or course of treatment and the mitigating circumstance. The PHA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify the need for a reasonable accommodation and will not inquire into the nature or extent of a person's disability, medical condition or course of treatment.

Examples of Mitigating Circumstances

- Evidence of successful rehabilitation;
- Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by the PHA;
- Evidence of successful and sustained modification of previous disqualifying behavior.
- Evidence of prior criminal history or other violations of the family occurring due to a family member being a victim of domestic violence, dating violence, sexual assault, or stalking.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. The PHA will consider such circumstances in light of:

- The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and
- The applicant's overall performance with respect to all the screening requirements.

Qualified and Unqualified Applicants

Information that has been verified by the PHA will be analyzed and a determination will be made with respect to:

- The eligibility of the applicant as a *family;*
- The eligibility of the applicant with respect to income limits for admission;
- The eligibility of the applicant with respect to citizenship or eligible immigration *status*;
- Any local preference to which the family is entitled.

Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which they are entitled under both INS and PHA procedures, except for a pending PHA hearing.

Applicants who are determined to be unqualified for admission will be promptly notified with a Notice of Denial of Admission stating the reason for the denial. The PHA shall provide applicants an opportunity for an informal hearing (see Chapter titled "Complaints, Grievances, and Appeals").

The PHA will make every effort to accurately estimate an approximate date of occupancy.

However, the date given by the PHA does not mean that applicants should expect to be housed by that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by the PHA, such as turnover rates, and market demands as they affect bedroom sizes and project location.

Documenting Findings

An authorized representative of the PHA shall document any pertinent information received relative to the following:

Criminal Activity - includes the activities listed in the definition of criminal activity in this Chapter.

Pattern of Violent Behavior - includes evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors.

Pattern of Drug Use - includes a determination by the PHA that the applicant has exhibited a pattern of illegal use of a controlled substance that might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Drug-Related Criminal Activity - includes a determination by the PHA that the applicant has been involved in the illegal manufacture, sale, distribution, use or possession of a controlled substance.

Pattern of Alcohol Abuse - includes a determination by the PHA that the applicant's pattern of alcohol abuse might interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.

Initiating Threats - or behaving in a manner indicating intent to assault employees, other tenants or guests.

Abandonment of a Public Housing Unit - without advising PHA officials so that staff may secure the unit and protect its property from vandalism.

Non-Payment of Rightful Obligations - including rent and/or utilities and other charges owed to the PHA or any other PHA.

Intentionally Falsifying an Application for Leasing - including uttering or otherwise providing false information about family income and size, using an alias on the application for housing, or making any other materially false statement or omission intended to mislead.

Record of Serious Disturbances of Neighbors, Destruction of Property or Other Disruptive or Dangerous Behavior - consists of patterns of behavior which endanger the life, safety, or welfare of other persons by physical violence, gross negligence or irresponsibility; which damage the equipment or premises in which the applicant resides, or which are seriously disturbing to neighbors or disrupt sound family and community life, indicating the applicant's inability to adapt to living in a multi-family setting. Includes judicial termination of tenancy in previous housing on the grounds of nuisance or objectionable conduct, or frequent loud parties, which have resulted in serious disturbances of neighbors.

Grossly Unsanitary or Hazardous Housekeeping - includes the creation of a fire hazard or other health and safety hazard through acts such as hoarding rags, papers, or other materials or personal belongings; severe damages to premises and equipment, if it is established that the family is responsible for the condition; seriously affecting neighbors by causing infestation, foul odors, depositing garbage in halls; or serious neglect of the premises. This category does not include families whose housekeeping is found to be superficially unclean or due to lack of orderliness, where such conditions do not create a problem for neighbors.

Destruction of Property from previous rentals.

In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct or financial prospects.

The PHA may waive the policies prohibiting admission in these circumstances if the person demonstrates to the PHA's satisfaction that the person is no longer engaging in illegal use of a controlled substance or abuse of alcohol and has successfully completed a supervised drug or alcohol rehabilitation program.

The PHA may waive the policies prohibiting admission for criminal history or other violations if the person provides evidence that the criminal history or other violations were the direct result of the applicant being the victim of domestic violence, dating violence, sexual assault, or stalking.

Prohibited Criteria for Denial of Admission

Applicants will NOT be rejected because they:

- Have no income;
- Are not employed;
- Do not participate in a job-training program;

- Will not apply for various welfare or benefit programs; Have children;
- Have children born out of wedlock; Are on welfare;
- Are students.

I. HEARINGS

If information is revealed that would cause the PHA to deny admission to the household and the person disputes the information, s/he shall be given an opportunity for an informal hearing according to the PHA's hearing procedures outlined in the Chapter on Complaints, Grievances and Appeals.

EXHIBIT 2-1: 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 their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

- 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 3
APPLYING FOR ADMISSION

INTRODUCTION

The policy of the PHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the PHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this Policy.

A. HOW TO APPLY

The application for placement on the waiting list may be taken by telephone, in writing, on-line via a web-based internet applications system (electronically), or from an applicant who visits the office. All possible reasonable accommodations will be provided to families with persons with disabilities, if requested in advance per the reasonable accommodation policy. Bilingual staff is available to take waiting list applications of those with limited English proficiency or the services of the language line are utilized to assist applicants of limited English proficiency.

Persons with disabilities may call the PHA to receive an application through the mail or make other arrangements to complete their pre-application.

Applications will be mailed to interested families upon request. The application process will involve two phases.

1. The first is the "initial" application for admission (referred to as a pre-application). This first phase is to determine the family's placement on the waiting list.

   The pre-application, if submitted in writing, will be dated, time-stamped, and referred to the PHA's office where tenant selection and assignment is processed. If the pre-application is submitted over the telephone or electronically, the information will be entered on the waiting list as of the date and time the information was received.

2. The second phase is the "final determination of eligibility for admission" (referred as the full application). The full application takes place when the family reaches the top of the waiting list. At this time, the PHA ensures that verification of all HUD and PHA eligibility factors is current in order to determine the family's eligibility for an offer of a suitable unit.

B. "INITIAL" APPLICATION PROCEDURES

The PHA may utilize a preliminary-application form (pre-application) for the initial waiting list application. The pre-application is taken over the phone, electronically or in person and the data is entered into the computer. The pre-application may also be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The purpose of the pre-application is to permit the PHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list.

- The pre-application may contain questions designed to obtain the following information:
- Names of head and spouse
- Names of adult members and age of all members
- Number of family members (used to estimate bedroom size needed) Street address and phone numbers
- Mailing address (if PO Box or other permanent address) Annual income
- Sufficient additional information to determine preference qualification Social Security Numbers
- Race/ethnicity (optional)
- Arrests/Convictions for Drug Related or Violent Criminal Activity Previous address(es)
- Names and addresses of current and previous landlords Emergency contact person and address
- Questions regarding previous participation in HUD programs

Applicants are requested to inform the PHA in writing, online or over the phone of changes in family composition, income, and address, as well as any changes in their Preference status. Applicants are also required to respond to requests from the PHA to update information on their application, or to determine their continued interest in assistance.

Failure to provide information or to respond to mailings will result in the applicant being removed from the waiting list. (See Chapter on Complaints, Grievances and Appeals.)

C. NOTIFICATION OF APPLICANT STATUS

After the pre-application is received, the family will be notified in writing of their placement on the public housing waiting list (in an accessible format upon request, as a reasonable accommodation).

This written notification of placement on the waiting list will be mailed to the applicant by first class mail.

If the family is determined to be ineligible based on the information provided in the pre-application, the PHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal hearing. Persons with disabilities may request to have an advocate attend the informal hearing as an accommodation. See Chapter on "Complaints, Grievances and Appeals."

Upon making an eligibility determination, the PHA must provide the family a notice of Violence Against Women Act of 2013 (VAWA) rights as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of eligibility determination.

D. COMPLETION OF A FULL APPLICATION

All preferences claimed on the application or while the family is on the waiting list will be verified:

After the family is selected from the waiting list, and prior to completing the final eligibility determination.

The qualification for preference must exist as of the date the family is selected from the waiting list regardless of the length of time an applicant has been on the waiting list because the preference is based on current status.

Applicants on the waiting list who will be selected in the near future will be sent a letter (see Chapter on Tenant Selection and Assignment Plan). The letter will notify the applicant of an application interview and request the applicant to bring all documents that verify all factors to be verified. Factors to be verified will be listed in the letter.

These documents will be used for verification only if Up Front Income Verification, then third party written verification, and then third-party oral verification cannot be obtained.

The full application will be mailed to the applicant in advance to complete.

Requirement to Attend Interview

The PHA may utilize the full application interview to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the information is complete. The interview may also be used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other PHA services or programs, which may be available.

If an interview is required, all adult family members must attend the interview and sign the housing application. Exceptions may be made for adult students attending school out of state or for members for whom attendance would be a hardship.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses one scheduled meeting(s), the PHA will reject the application.

If an applicant fails to appear for their interview without prior approval of the PHA, their application will be denied unless they can provide acceptable documentation to the PHA that an emergency prevented them from calling.

Reasonable accommodations will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to provide some information, but only with permission of the person with a disability.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal hearing. (See Chapter on Complaints, Grievances and Appeals.)

All adult members, and head of household and spouse regardless of age, must sign form HUD-9886, "Release of Information," the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, the declarations and consents related to citizenship/immigration status and any other documents required by the PHA. Applicants will be required to sign specific verification forms for information that is not covered by the HUD-9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and releases as required by the PHA.

Information provided by the applicant will be verified, including information related to family composition, identify, age, income, allowances and deductions, assets, eligible immigration status, full time student status and other factors related to eligibility and rent calculation.

If the PHA determines at or after the interview that additional information or document(s) are needed, the PHA will request the document(s) or information in writing. The family will be given 14 working days to supply the information. The family's response must be in writing and may be delivered in person, by mail, by email, or by fax.

If the information is not supplied in this time period, the PHA will provide the family a notification of denial for assistance. (See Chapter on Complaints, Grievances and Appeals.)

E. EIV SYSTEM SEARCHES

Existing Tenant Search

Prior to admission to the program, HACSD will search for all household members using the EIV Existing Tenant Search module. HACSD must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, HACSD must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

HACSD will contact the PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. HACSD will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, HACSD must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact HACSD directly in writing to dispute the information and provide any documentation that supports the dispute. If HACSD determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

HACSD will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

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

Income and IVT Reports

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

F. PROCESSING APPLICATIONS

As families approach the top of the waiting list, the following items will be verified to determine qualification for admission to the PHA's housing:

- Preference verification
- Family composition and type (elderly/non-elderly)
- Annual Income
- Assets and Asset Income Deductions from Annual Income
- Information used in applicant screening
- Citizenship or eligible immigration status
- Criminal History Report

Social Security Numbers of all family members- PIH Notice 2018-24 reiterates that the PHA must deny the eligibility of an applicant family unless each member of the household discloses an SSN and provides documentation of each SSN.

G. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY

After the verification process is completed, the PHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the PHA, and the tenant suitability determination (see Chapter on Eligibility for Admission).

Upon making an eligibility determination, the PHA must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act of 2013, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family is notified of its eligibility; or (2) when a family is notified of its ineligibility.

Because HUD can make changes in rules or regulations and family circumstances may have changed during the review process that affect an applicant's eligibility, it is necessary to make final eligibility determination.

The household is not actually eligible for a unit offer until this final determination has been made, even though they may have been preliminarily determined eligible and may have been listed on the waiting list.

Chapter 4

TENANT SELECTION AND ASSIGNMENT PLAN

(Includes Preferences and Managing the Waiting List) [24 CFR 960.203, 960.204, 960.205, 960.206]

INTRODUCTION

It is the PHA's policy that each applicant shall be assigned an appropriate place on PHA's central waiting list. Applicants will be listed in sequence based upon date and time the application is received, the size and type of unit they require, and factors of preference or priority.

In filling an actual or expected vacancy, the PHA will offer the dwelling unit to an applicant in the appropriate sequence, with the goal of accomplishing deconcentration of poverty and income-mixing objectives. This Chapter describes the PHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list.

PHA's Objectives

PHA policies will be followed consistently and will affirmatively further HUD's Fair Housing goals.

It is the PHA's objective to ensure that families are placed in the proper order on the waiting list so that the offer of a unit is not delayed to any family unnecessarily or made to any family prematurely. This chapter explains the policies for the management of the waiting list.

When appropriate units are available, families will be selected from the waiting list in their preference-determined sequence.

By maintaining an accurate waiting list, the PHA will be able to perform the activities, which ensure that an adequate pool of qualified applicants will be available to fill unit vacancies in a timely manner. Based on the PHA's turnover and the availability of appropriately sized units, groups of families will be selected from the waiting list to form a final eligibility "pool." Selection from the pool will be based on completion of verification.

A. MANAGEMENT OF THE WAITING LIST

The PHA will administer its waiting list as required by 24 CFR Part 5, Part 945 and Part 960, Subparts A and B. The waiting list will be maintained in accordance with the following guidelines:

- The application will be a permanent file.
- All applicants in the pool will be maintained in order of date and time of application receipt.
- All applicants must meet applicable income eligibility requirements as established by HUD.

Opening and Closing the Waiting Lists

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

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

When the PHA opens the waiting list, the PHA will advertise through public notice in the appropriate newspapers, minority publications and media entities that serve the location(s) and program(s) for which applications are being accepted.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the PHA address and telephone number, how to submit an application, information on eligibility requirements.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date. Other disability-related circumstances affecting a person's ability to timely submit an application will also be considered, upon request.

When Application Taking is Suspended

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

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

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover over the next 24 months. When the period for accepting applications is over, the PHA will add the new applicants to the list by:

> Separating the new applicants into groups based on preferences and unit size and ranking applicants within each group by date and time of application.

The PHA will update the waiting list periodically by removing the names of those families who are no longer interested, no longer qualify for housing, or cannot be reached by mail or telephone. At the time of initial intake, the PHA will advise families of their responsibility to notify the PHA when mailing address or telephone numbers change. The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation.

Reopening the List

If the waiting list is closed and the PHA decides to open the waiting list, the PHA will publicly announce the opening at least 10 days prior to the date applications will first be accepted.

Any reopening of the waiting list is done in accordance with the HUD Fair Housing requirements.

The notice will inform applicants of the date, time, method, and place applications can be obtained and submitted, how blank applications may be obtained (e.g., from what addresses, community sites, and websites), all methods by which applications will be accepted (e.g., in person, by phone, by fax, by email), a point of contact who can answer questions, any limitations on who may apply, and any other information the applicant may need to successfully submit the application. The PHA will describe its prioritization system or whether it uses a lottery and will clearly state that this system will be used to place applicants on the waiting list. To ensure that public notices broadly reach potential applicants in all communities throughout the housing market area, the PHA will distribute public notices to local community-based organizations, such as social service agencies and religious institutions; distribute the notice online through the PHA's website or social media platforms and other online platforms for local housing news; and make use of any local newspapers of general circulation, minority media, and other suitable means.

Limits on Who May Apply

When the waiting list is open:

> Any family asking to be placed on the waiting list for Public Housing rental assistance will be given the opportunity to complete a pre-application. A family known to be ineligible will not be placed on the waiting list.

When the application is submitted to the PHA:

> It establishes the family's date and time of application for placement order on the waiting list.

Multiple Families in Same Household:

> When families apply that consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

B. WAITING LIST PREFERENCES

A preference does not guarantee admission to the program. Preferences are used to establish the order of placement on the waiting list. Every applicant must meet the PHA's Selection Criteria as defined in this policy.

The PHA's preference system will work in combination with requirements to match the characteristics for the family to the type of unit available, including units with targeted populations, and further deconcentration of poverty in public housing. When such matching is required or permitted by current law, the PHA will give preference to qualified families.

The PHA to verify their preference will contact families who reach the top of the waiting list and, if verified, the PHA will complete a full application for occupancy. Applicants must complete the application for occupancy and continue through the application processing and may not retain their place on the waiting list if they refuse to complete their processing when contacted by the PHA.

Among applicants with equal preference status, the waiting list will be organized by date and time.

C. LOCAL PREFERENCES

The following local preferences are established. When determining equally ranked preferences, the date and time of application is the final deciding factor.

RANKING PREFERENCES

Please refer to the glossary for definitions of the following groups:

SPECIAL ADMISSION

Eligible homeless applicants who have been referred by the Regional Taskforce on Homelessness agency members, and either: a) Meet the definition of homelessness and referral criteria, as determined by HACSD/HCDS programs, or; b) Are exiting federally-assisted, locally-assisted, or state-assisted HACSD/HCDS administered housing programs with no other permanent housing placement options; have a super preference to the categories listed below and have first priority for selection off of the Public Housing waiting list. *Note: The super preference for eligible homeless applicants will be limited to a total of 10 households who meet the criteria.

After families with a super preference are selected, additional applicants are selected out of the following categories with date and time of application a tiebreaker between equal preference holders.

Residency Preference [24 CFR 960.206(b)(1)

A family who, at the time of selection, lives or includes a member who works or has been notified that they are hired to work in the HACSD jurisdiction regardless of length of time, and are in one of the local preference categories listed below.

Use of the residency preference will not have the effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family. Prioritization will be established in combination with the local preferences indicated below.

CATEGORY ONE

The HACSD uses equally weighted local preferences for applicants, with priorities for those *who meet the residency preference in the HACSD jurisdiction* and are in one or more of the following categories:

- Families with dependent children
- Working Families
    - The Head of household, spouse or sole household member is employed (must have worked an average of at least 20 hours per week for the previous 6 months. Applicants may combine job training or employment preparatory academic program participation as part of the previous 6-month requirement, or

  - The Head of household, spouse or sole household member is receiving unemployment, disability, or worker's compensation benefits at the time of selection, or
  - The Head of household, spouse or sole member is age 62 or older or a person with disabilities
- Elderly families (head of household, spouse or co-head is 62 years of age or older)
- Disabled families (head of household, spouse or co-head is disabled)
- Veterans or surviving spouses of veterans (other than dishonorable discharge)

CATEGORY TWO

Applicants who meet the residency preference in the HACSD jurisdiction, but who do not fit in Category One.

CATEGORY THREE

Applicants who do not meet the residency preference within the HACSD jurisdiction, but are one or more of the following:

- Families with dependent children
- Working Families -
  - The Head of household, spouse or sole household member is employed (must have worked an average of at least 20 hours per week for the previous 6 months. Applicants may combine job training or employment preparatory academic program participation as part of the previous 6-month requirement, or
  - The Head of household, spouse or sole household member is receiving unemployment, disability, or worker's compensation benefits at the time of selection, or
  - The Head of household, spouse or sole member is age 62 or older or a person with disabilities.
- Elderly families (head of household, spouse or co-head is 62 years of age or older)
- Disabled families (head of household, spouse or co-head is disabled)
- Veterans or surviving spouses of veterans (other than dishonorable discharge) Homeless

CATEGORY FOUR

All other applicants not indicated above.

D. ORDER OF SELECTION FOR GENERAL OCCUPANCY (FAMILY) DEVELOPMENTS

The PHA has established the following local admissions preferences for general occupancy (family) developments:

CATEGORY ONE

The HACSD uses equally weighted local preferences for applicants, with priorities those *who meet the residency preference in the HACSD jurisdiction* and are in one or more of the following categories:

- Families with dependent children
- Working Families –
    - The Head of household, spouse or sole household member is employed (must have worked an average of at least 20 hours per week for the previous 6 months. Applicants may combine job training or employment preparatory academic program participation as part of the previous 6-month requirement, or
    - The Head of household, spouse or sole household member is receiving unemployment, disability, or worker's compensation benefits at the time of selection, or
    - The Head of household, spouse or sole member is age 62 or older or a person with disabilities.
- Elderly families (head of household, spouse or co-head is 62 years of age or older) Disabled families (head of household, spouse or co-head is disabled)
- Veterans or surviving spouses of veterans (other than dishonorable discharge) Homeless

CATEGORY TWO

Applicants who meet the *residency preference* in the HACSD jurisdiction, but who do not fit in Category One.

CATEGORY THREE

Applicants who *do not meet the residency preference within the HACSD jurisdiction*, but are one or more of the following:

- Families with dependent children

- Working Families
  - The Head of household, spouse or sole household member is employed (must have worked an average of at least 20 hours per week for the previous 6 months. Applicants may combine job training or employment preparatory academic program participation as part of the previous 6-month requirement, or
  - The Head of household, spouse or sole household member is receiving unemployment, disability, or worker's compensation benefits at the time of selection, or
  - The Head of household, spouse or sole member is age 62 or older or a person with disabilities.
- Elderly families (head of household, spouse or co-head is 62 years of age or older) Disabled families (head of household, spouse or co-head is disabled)
- Veterans or surviving spouses of veterans (other than dishonorable discharge)
- Homeless

CATEGORY FOUR

All other applicants not indicated above.

E. ORDER OF SELECTION FOR MIXED POPULATION DEVELOPMENTS

A mixed population project is a public housing project, or portion of a project that was reserved for elderly families and disabled families at its inception (and has retained that character).

In accordance with the 1992 Housing Act, elderly families whose head spouse or sole member is at least 62 years of age, and disabled families whose head, co-head or spouse or sole member is a person with disabilities, will receive equal preference to such units.

No limit will be established on the number of elderly or disabled families that may occupy a mixed population property. All other PHA preferences will be applied.

The PHA has established the following local admissions preferences for Mixed Population developments. Per HUD regulations, equal preference must be given to Elderly Families and Disabled Families:

First Priority: elderly families or disabled families who live in the PHA's jurisdiction

Second Priority: near elderly or disabled families who live in the PHA's jurisdiction

Third Priority: elderly families or disabled families who do not live in the PHA's jurisdiction.

F. VERIFICATION OF PREFERENCE QUALIFICATION

The family may be placed on the waiting list upon their certification that they qualify for a preference. When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the PHA in writing or online when their circumstances change. When an applicant claims an additional preference, s/he will be placed on the waiting list in the proper order of their newly claimed preference.

G. PREFERENCE DENIAL

If the PHA denies a preference, the applicant will be placed on the waiting list without benefit of the preference.

The PHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal hearing. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

Any applicant who falsifies documents or makes false statements in order to qualify for any preference will be removed from the waiting list with notification to the family.

H. FACTORS OTHER THAN PREFERENCES THAT AFFECT SELECTION OF APPLICANTS

Before applying its preference system, the PHA will first match the characteristics of the available unit to the applicants available on the waiting lists. Factors such as unit size, accessible features, deconcentration or income mixing, income targeting, or units in housing designated for the elderly/disabled limit the admission of families to those characteristics that match the characteristics and features of the vacant unit available.

By matching unit and family characteristics, it is possible that families who apply later may receive an offer of housing ahead of families with an earlier date and time of application.

I. INCOME TARGETING

The PHA will monitor its admissions to ensure that at least 40% of families admitted to public housing in each fiscal year shall have incomes at or below the federal poverty level or do not exceed 30% of area median income of the PHA's jurisdiction, whichever number is higher [*Federal Register* notice 6/25/14].

Hereafter families whose incomes are at or below the federal poverty level or do not exceed 30% of area median income will be referred to as "extremely low-income families."

The PHA shall have the discretion, at least annually, to exercise the "fungibility" provision of the QHWRA by admitting less than 40 percent of "extremely low-income families" to public housing in a fiscal year, to the extent that admissions of extremely low income families to the PHA's voucher program during a PHA fiscal year exceeds the 75 percent minimum targeting requirement for the PHA's Section 8 Housing Choice Voucher Program. This fungibility provision discretion by the PHA is also reflected in the PHA's Administrative Plan.

The fungibility credits will be used to drop the annual requirement below 40 percent of admissions to public housing for extremely low-income families by the lowest of the following amounts:

- The number of units equal to 10 percent of the number of newly available vouchers in the fiscal year; or

- The number of public housing units that 1) are in public housing projects located in census tracts having a poverty rate of 30% or more, and 2) are made available for occupancy by and actually occupied in that year by, families other than extremely low-income families.

The Fungibility Floor: Regardless of the above two amounts, in a fiscal year, at least 30% of the PHA's admissions to public housing will be to extremely low-income families. The fungibility floor is the number of units that cause the PHA's overall requirement for housing extremely low-income families to drop to 30% of its newly available units.

Fungibility shall only be utilized if the PHA is anticipated to fall short of its 40% goal for new admissions to public housing.

Low Income Family Admissions

Once the PHA has met the 40% targeted income requirement for new admissions of extremely low-income families, the PHA will fill the remainder of its new admission units with families whose incomes do not exceed 80% of the HUD approved area median income.

J. UNITS DESIGNATED FOR THE ELDERLY

In accordance with the 1992 Housing Act, elderly families with a head, spouse, co-head or sole member at least 62 years of age will receive a preference for admission to such units or buildings covered by a HUD-approved Allocation Plan, except for accessible units, which may be offered to persons with disabilities.

K. UNITS DESIGNATED FOR THE DISABLED

In accordance with the 1992 Housing Act, disabled families with a head, spouse, co-head or sole member who qualifies as a person with disabilities as defined in 24 CFR 945.105 will

receive a preference for admission to units that are covered by a HUD-approved Allocation Plan.

The PHA has units designed for persons with mobility, sight and hearing impairments (referred to as accessibility units). These units were designed and constructed specifically to meet the needs of persons with mobility, sight or hearing impairments.

Preference for occupancy of these units will be given to families with disabled family members who require the accessibility features provided in the units.

L. DECONCENTRATION OF POVERTY AND INCOME-MIXING

Per 24 CFR 982.2, the PHA is not subject to deconcentration and income mixing because it has less than 100 units in each of its four developments (b) (2) (i). In addition, one of its four developments is designated for elderly and disabled (b) (2) ii)

The PHA still has the obligation to meet the income-targeting requirement.

M. PROMOTION OF INTEGRATION

Beyond the basic requirement of nondiscrimination, PHA shall affirmatively further Fair Housing to reduce racial and national origin concentrations.

The PHA shall not require any specific income or racial quotas for any development or developments.

A PHA shall not assign persons to a particular section of a community or to a development or building based on race, color, religion, creed, sex, national origin, handicap, familial status, age, ancestry, marital status, sexual orientation, source of income, medical condition, gender, gender identity, gender expression, genetic information or any other unlawful basis for purposes of segregating populations.

N. OFFER OF PLACEMENT ON THE SECTION 8 WAITING LIST

The PHA will not merge the waiting lists for public housing and Section 8. However, if the Section 8 waiting list is open when the applicant is placed on the public housing list, the PHA must offer to place the family on both lists. If the public housing waiting list is open at the time an applicant applies for Section 8, the PHA must offer to place the family on the public housing waiting list.

O. REMOVAL FROM WAITING LIST AND PURGING

The waiting list may be purged periodically to ensure that it is current and accurate. In order to purge the waiting list, the HACSD will perform outreach efforts to notify the public that the waitlist will be updated. All notifications will provide the date by which a specified action must be taken and failure to do so will result in the applicant's name being inactivated on the waiting list. The HACSD will notify the public by using one or more of the methods listed below:

- A notice will be mailed asking applicants for confirmation of continued interest.
- Publication in local newspapers of general circulation, as well as minority media

- Social Media postings
- English and Spanish flyers in County libraries
- Postings on HACSD's website
- County press releases
- Community meetings
- Emails to cities managers and Housing Departments within the HACSD's jurisdiction

If the applicant provides information that s/he did not respond to the notice because of a family member's disability, they may be entitled to reinstatement as a reasonable accommodation. The HACSD will reinstate the applicant at the original date and time of application. The family will also be reinstated if there is a reasonable possibility that the family was not notified due to circumstances that were beyond the family's control as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, or stalking, including an adverse factor resulting from such abuse.

P. OFFER OF ACCESSIBLE UNITS

The PHA has units designed for persons with mobility, sight and hearing impairments, referred to as accessible units.

The PHA will not offer any accessible units to a family not requiring the features of such a unit until all eligible mobility, vision or hearing-impaired applicants have been considered.

Before offering a vacant accessible unit to a non-disabled applicant, the PHA will offer such units:

First, to a current occupant of another unit of the same development, or other public housing developments under the PHA's control, who has a disability that requires the special features of the vacant unit.

Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible/adaptable 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 resident or an applicant needs the features of the unit and there is another unit available for the applicant. This requirement will be a provision of the lease agreement.

See "Leasing" chapter.

Q. PLAN FOR UNIT OFFERS

The PHA plan for selection of applicants and assignment of dwelling units to assure equal opportunity and non-discrimination on grounds of race, color, religion, creed, sex, national origin, handicap, familial status, age, ancestry, marital status, sexual orientation, source of income, medical condition, gender, gender identity, gender expression, genetic information or any other unlawful basis is:

Two locations: The applicant will be offered a unit in two locations. The applicant must first be offered a suitable unit in the location with the higher number of vacancies. If the offer is rejected, a final offer will be made for a unit at the second location.

If more than one unit of the appropriate type and size is available at either location, the first unit to be offered will be the first unit that is ready for occupancy.

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.

R. CHANGES PRIOR TO UNIT OFFER

Changes that occur during the period between removal from the waiting list and an offer of a suitable unit may affect the family's eligibility or Total Tenant Payment. The family will be notified in writing of changes in their eligibility or level of benefits and offered their right to an informal hearing when applicable (See Chapter on Complaints, Grievances, and Appeals)

S. APPLICANT STATUS AFTER FINAL UNIT OFFER

When an applicant rejects the final unit offer the PHA will:

Remove the applicant's name from the waiting list.

Removal from the waiting list means:

The applicant must reapply.

T. TIME-LIMIT FOR ACCEPTANCE OF UNIT

Applicants must accept a unit offer within five working days of the date the offer is made and must move-in to the unit within 15 days of the offer. If an applicant is unable to accept the offer within five working days for reasons directly related to a disability, the applicant may request a reasonable accommodation for additional time to accept the offer.

Applicants Unable to Take Occupancy

If an applicant is willing to accept the unit offered but is unable to take occupancy within 15 days of the offer for *"good cause,"* the applicant will not be removed from the waiting list.

Examples of *"good cause"* reasons for the refusal to take occupancy of a housing unit include, but are not limited to:

- An elderly or disabled family makes the decision not to accept occupancy in designated housing. [24 CFR 945.303(d)]
- The family demonstrates to the PHA's satisfaction that accepting the offer will result in a situation where a family member's life, health or safety will be placed in jeopardy. The family must offer specific and compelling documentation such as restraining

orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. The reasons offered must be specific to the family. Refusals due to the location of the unit alone are not considered to be good cause.

- The family provides written verification from a credible party, such as a health professional of the temporary hospitalization or recovery from illness of the principal household member, other household members, or a live-in aide necessary to care for the principal household member.
- The unit is inappropriate for the applicant's disabilities.

Applicants With a Change in Family Size or Status

Changes in family composition, status, or income between the time of the interview and the offer of a unit will be processed. The PHA shall not lease a unit to a family whose occupancy will overcrowd or underutilize the unit.

The family will take the appropriate place on the waiting list according to the date they first applied.

U. REFUSAL OF OFFER

If the unit offered is inappropriate for the applicant's disabilities, the family will retain their position on the waiting list.

If the unit offered is refused for other reasons, the PHA will follow the applicable policy as listed in the "Plan for Unit Offers" section and the "Applicant Status After Final Offer" section.

Chapter 5
OCCUPANCY GUIDELINES

INTRODUCTION

The Occupancy Guidelines are established by the PHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. This Chapter explains the Occupancy Guidelines used to determine minimum and maximum unit sizes for various sized families when they are selected from the waiting list, or when a family's size changes, or when a family requests an exception to the occupancy guidelines.

A. DETERMINING UNIT SIZE

The PHA does not determine who shares a bedroom/sleeping area(s), but there must be at least one person per bedroom. The PHA's Occupancy Guideline standards for determining unit size shall be applied in a manner consistent with Fair Housing guidelines.

For occupancy standards, an adult is a person 18 years or older.

All guidelines in this section relate to the number of bedrooms in the unit. Dwelling units will be so assigned that:

One bedroom will generally be assigned for every two family members. Upon request of the family, the PHA will consider factors such as family characteristics including sex, age, or relationship, the number of bedrooms and size of sleeping areas or bedrooms and the overall size of the dwelling unit. Consideration will also be given to requests for reasonable accommodation for disability-related needs and/or the presence of a live-in aide.

Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

Space will not be provided for a family member who will be absent from the household for more than 180 consecutive days. An employed head, spouse or co-head absent from the unit for more than 180 consecutive days due to employment will continue to be considered a family member.

GUIDELINES FOR DETERMINING BEDROOM SIZE

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0 Bedroom	1	1
1 Bedroom	1	3
2 Bedrooms	2	5
3 Bedrooms	3	7
4 Bedrooms	4	9
5 Bedrooms	6	11
6 Bedrooms	8	13

B. EXCEPTIONS TO OCCUPANCY STANDARDS

The PHA will grant exceptions from the guidelines for a larger unit if the PHA determines the exceptions are justified by the disability of family members, there are no alternate sleeping areas available to the other family members, and there is a vacant unit available. If an applicant requests to be listed on a smaller or larger bedroom size waiting list, the following guidelines will apply:

- Applicants 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 local codes). The family must agree not to request a transfer until they have occupied the unit for one year.
- At the PHA's discretion the family may be offered a unit smaller than the preferred unit size, based on the PHA's occupancy standards, if in doing so the family has an opportunity to be housed earlier, or live in a preferred project.
- The PHA may offer a family a unit that is larger than required by the PHA's occupancy standards, if the waiting list is short of families large enough to fill the vacancy.
- In all cases, when the family requests an exception to the general occupancy standards, the PHA will, at the family's request, take into account the relationship and ages of all family members and the overall size of the unit.
- The family may request to be placed on a larger bedroom size waiting list than indicated by the PHA's occupancy guidelines. The request must explain the need or justification for a larger bedroom size to accommodate a person with disabilities or a live-in aide, and the disability and disability-related need must be verified by the PHA (unless the disability and need are readily apparent) before the family is placed on the larger bedroom size list.

The PHA will consider these requests:

Persons with Disabilities

The PHA will grant an exception upon request as a reasonable accommodation for persons with disabilities if the disability and need are appropriately verified (unless apparent) and the request meets requirements in the Service and Accommodations Policy section of Chapter 1.

Other Circumstances

- Circumstances may dictate a larger size than the occupancy standards permit when:
- Persons cannot share a bedroom because of the size of medical equipment needed throughout the night;
- A separate room is needed for medical equipment; or
- Other circumstances related to a person's disability.

All members of the family residing in the unit must be pre-approved by the PHA. The family must obtain approval of any additional family member before the person occupies the unit except for additions by birth, adoption, return of minor or disabled children to the household, or court-awarded custody, in which case the family must inform the PHA within 14 days. If someone moves into the unit before receiving required PHA approval, that person will be considered an unauthorized person.

To avoid vacancies, the PHA may provide a family with a larger unit than the occupancy standards permit. The family must agree to move to a suitable, smaller unit within 30 days when another family qualifies for the larger unit and there is a suitable smaller unit available. This requirement is a provision of the lease.

C. INCENTIVES TO ATTRACT HIGHER INCOME FAMILIES TO LOWER INCOME DEVELOPMENTS

See Chapter on Tenant Selection and Assignment.

D. ACCESSIBLE UNITS

The PHA has units designed for persons with mobility, sight and hearing impairments (referred to as accessible units). These units were designed and constructed specifically to meet the needs of persons with mobility, sight or hearing impairments.

Preference for occupancy of these units will be given to families with disabled family members who benefit from the accessibility features provided in the units.

The PHA will not offer any accessible units to a family without a mobility, vision or hearing-impaired member until all eligible mobility, vision or hearing-impaired applicants have been considered.

Accessible units will be offered and accepted by non-mobility impaired applicants only with the understanding that such applicants must accept a transfer to a non-accessible unit at a later date if a person with a mobility, vision or hearing impairment requiring the unit applies for housing and is determined eligible.

E. FAMILY MOVES

When a change in the circumstances of a tenant family requires another unit size, the family's move depends upon the availability of a suitable size and type of unit. If the unit is not available at the time it is requested, the family will be placed on the Transfer List.

The unit considerations in this section should be used as a guide to determine whether and when the bedroom size should be changed. If an unusual situation occurs, which is not currently covered in this policy, the case should be taken to the Housing Supervisor who will make determination after review of the situation, the individual circumstances, and the verification provided.

See chapter on Recertifications for changes in unit size for tenants.

Chapter 6

DETERMINATION OF TOTAL TENANT PAYMENT [24 CFR 5.609, 5.611, 5.613, 5.615, 5.628, 5.630]

INTRODUCTION

The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the regulations.

This Chapter defines the allowable deductions from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subpart F and further instructions set forth in HUD Notices, Memoranda and Addenda. However, the Quality Housing and Work Responsibility Act now give PHAs broader flexibility. The PHA's policies in this Chapter address those areas that allow the PHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

A. MINIMUM RENT

The minimum rent for this PHA is Zero dollars. The minimum rent refers to a minimum total tenant payment and not a minimum tenant rent.

The Total Tenant Payment is the greater of:

- 30% of the adjusted monthly income
- 10% of the monthly income
- The Minimum rent as established by the PHA

The Total Tenant Payment does not include charges for excess utility consumption or other charges.

B. INCOME AND ALLOWANCES

Income: The types of money that are to be used as income for purposes of calculating the TTP are defined by HUD in federal regulations. In accordance with this definition, income from all sources of each member of the household is documented. (See Income Inclusions and Income Exclusions in the Glossary of Terms of this policy.)

Amounts the PHA has determined do not meet the definition of income

- Employer reimbursement for mileage expenses is not considered income as long as the reimbursement is reasonable as compared to a large employer or the Internal Revenue Service mileage allowance. Mileage logs may be requested.
- Loans to a participant/applicant from an institution are not considered income. However, "loans" from private parties are considered income, if it is apparent there is little likelihood the loan will be repaid within the next three years, loans from the previous year have not been repaid, and if there was no written, well-defined notarized loan agreement executed at the time of the loan.
- Repayment of a loan back to the applicant/participant is not considered income if documentation can be presented that the loan was made by the applicant/participant. If no documentation is provided, the "repayments" are considered income.
- Employer contributions for medical or childcare expenses are not considered income as long as the money is only accessible by the family as reimbursement for out-of-pocket medical or childcare expenses. However, childcare or medical expenses will not be allowed as a deduction from annual income if they are reimbursable through any source.

Annual Income is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions and does not include income that has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits. (24 CFR 960.201)

Adjusted Income is defined as the Annual income minus any HUD-allowable deductions.

Permissive Deductions

The PHA has no permissive deductions.

Allowable Deductions

HUD has five allowable deductions from Annual Income:

1. Dependent allowance: $480 each for family members (other than the head or spouse), who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
2. "Elderly" allowance: $400 per household for families whose head, spouse or co- head is 62 or over or disabled.

3. Allowable medical expenses for all family members are deducted for elderly and disabled families when the expenses exceed 3 percent of the family's annual income.
4. Childcare expenses for children under 13 are deducted when childcare is necessary to allow an adult family member to work, actively seek work, or attend school (including vocational training).
5. Expenses for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work, and if the expenses exceed 3 percent of the family's annual income.

C. TRAINING INCOME EXCLUSIONS [24 CFR 5.609(c)(8)(v) and updated by FR Notice 5/20/14]

The PHA believes that training income exclusions are an important factor in helping public housing participants move from welfare and dependence to greater self-sufficiency.

The PHA will share information regarding new policies governing training income derived from qualifying employment-training programs with applicants, participants and local social service providers. The PHA's objective is to encourage families to move toward self- sufficiency by excluding from their annual income certain amounts earned through participation in various qualifying training programs. These training programs are aimed at offering the resident gainful employment skills. The exclusion of training income, in the calculation of annual income, is meant to be an incentive. It is the PHA's hope that welfare agencies will adopt or modify their programs so that welfare recipients living in Public Housing will receive the maximum benefits from these income exclusions.

In order to be eligible for the exclusion, the resident must actually receive training under the provisions of the program. For purposes of this exclusion, it is not enough for the resident to merely be enrolled.

1. Training Income Exclusions [24 CFR 5.609(c)(8)(v)]

Income from training programs is excluded when the training program is in accordance with 24 CFR 5.609 (c) (8)(v) and has features that allow the training income of assisted housing residents to be excluded only while the resident is actively enrolled in the training program.

A training program qualifying under 24 CFR 5.609 (c)(8)(v) is defined as one with goals and objectives designed to lead to a higher level of proficiency, and one which enhances the individual's ability to obtain employment. The training program may have performance standards to measure proficiency. Training may include, but is not limited to:

- Classroom training in a specific occupational skill;
- On-the-job training with wages subsidized by the program, or
- Basic education.

For this purpose, Annual Income does not include the following:

Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs.

At all times the income to be excluded is the incremental income only.

"Incremental income" is defined by HUD as the increase between the total amount of welfare and earnings a family member *is eligible to receive prior* to enrollment in the training program and the total amount of welfare and earnings the family receives member *after* enrollment in the training program.

All other amounts, (such as child support and alimony), are treated in the usual manner in determining annual income. Child support, or other income that is not *earnings or benefits,* is not a factor and will not be considered in regard to training income exclusions, regardless of whether they have increased or decreased.

Who is Eligible for the Exclusion

Any member of the resident's family is eligible for the exclusion, provided the individual is enrolled in the qualifying employment-training program.

If a family has members who enroll in training programs at different times, the exclusion may be taken at different periods. The rules will be applied individually to each member based on which type of program they are enrolled in.

Verification

Upon verification, residents who are actively enrolled in a qualifying training program will have the incremental income from the training program excluded from their annual income.

Other Factors to Be Considered

If a resident has no income the day they enter a training program, but has a history of employment in the past, the PHA will review the resident's wages for the past 18 months and average the income. That averaged income will become the resident's base amount for determining incremental earnings. Exception: If the resident has no income and enrolls in a welfare program which requires participants to be enrolled in a job-training program, the base pay for that resident will be zero.

The resident is required to notify the PHA within 14 working days of enrolling in a qualifying training program.

Residents who have a decrease in income as a result of enrolling in a training program may request an interim examination. The PHA will determine the decrease in incremental income as a result of the training program and adjust the resident's rent accordingly.

Residents who do not notify the PHA within 14 working days of starting a training program, and have a decrease in income, will not have their rent adjusted retroactively.

D. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS

[24 CFR 960.255, Streamlining Final Rule 03/08/16, Notice PIH 2023-27]

Enrollment for eligible families for the Earned Income Disallowance (EID) for persons with disabilities will sunset effective 12/31/2023. Families enrolled prior to this date or who are already enrolled are entitled to receive the full benefit of their 24-month exclusion period. Because EID lasts up to 24 consecutive months, no families will still receive the EID benefit after December 31, 2025.

The annual income for qualified families may not be increased as a result of increases in earned income beginning on the first of the month after the increase in earned income begins and continuing for a cumulative 12-month period. After the family receives 12 cumulative months of the full exclusion, annual income will include a phase-in of half the earned income excluded from annual income.

A family qualified for the earned income exclusion is a family that occupies a dwelling unit in a public housing project, is paying income-based rent; and

1. Whose annual income increases as a result of employment of a family member who was previously unemployed for one or more years prior to employment;
2. 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
3. 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 TANF provided that the total amount over a six-month period is at least $500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least $500 in such TANF benefits and services as one-time payments, wage subsidies, and transportation assistance.

The HUD definition of "previously unemployed" includes a person who has earned in the previous 12 months no more than the equivalent earnings for working ten hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may 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 substance abuse or mental health treatment).

Amounts to be excluded are any earned income increases of a family member during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member [See 24 CFR 960.255 Self-sufficiency incentive-Disallowance of increase in

annual income]. The incremental increase in income is calculated by comparing the amount of the family member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

Calculation Method

Initial 12-Month Exclusion

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

PHA Policy

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

Second 12-Month Exclusion

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

PHA Policy

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

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on December 31, 2025. In no circumstances will a family member's exclusion period continue past January 1, 2026.

Applicability to Childcare and Disability Assistance Expense Deductions:

The amount deducted for childcare and disability assistance expenses necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for childcare and disability assistance expense deductions.

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

Such documentation will include:

- Name of the family member whose earned income increased
- Reason (new employment, participation in job training program, within 6 months after receiving TANF) for the increase in earned income
- Amount of the increase in earned income (amount to be excluded) Date the increase in income is first excluded from annual income
- Ending date of the maximum 48-month (four year) disallowance period (48 months from the date of the initial earned income disallowance)

The PHA will maintain a tracking system to ensure correct application of the earned income disallowance.

Additional Exclusions from Annual Income

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/14 provide guidance for additional exclusions for annual income determination. HUD publishes an updated list of these exclusions periodically.

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 their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2018-24].

Applying SSA COLA to Current Annual and Interim Reexaminations

Applying SSA COLA to Current Annual and Interim Reexaminations Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1st or later of the upcoming year [Notice PIH 2018-24].

Inapplicability to Admission

The earned income disallowance is only applied to determine the annual income of families residing in public housing, and therefore does not apply for purposes of admission (including the determination of income eligibility or any income targeting that may be applicable).

E. INDIVIDUAL SAVINGS ACCOUNTS

The PHA chooses not to establish a system of individual savings accounts for families who qualify for the disallowance of earned income.

F. TRAINING PROGRAMS FUNDED BY HUD

All training income from a HUD sponsored or funded training program, whether incremental or not, is excluded from the resident's annual income while the resident is in training. Income from a Resident Services training program, which is funded by HUD, is excluded.

G. WAGES FROM EMPLOYMENT WITH THE PHA OR RESIDENT ORGANIZATION

Upon employment with the PHA or officially recognized Resident Organization, the full amount of employment income received by the person is counted. There is no exclusion of income for wages funded under the 1937 Housing Act Programs, which includes public housing and Section 8.

H. AVERAGING INCOME

When Annual Income cannot be anticipated for a full twelve months, the PHA will: Average known sources of income that vary to compute an annual income or,

If there are bonuses or overtime, which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

Income from the previous year may be analyzed to determine the amount to anticipate when third party or check-stub verification is not available.

If by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so that the housing payment will not change from month to month.

The method used depends on the regularity, source and type of income.

I. MINIMUM INCOME

There is no minimum income requirement. Families who report zero or minimal income are required to report every 30 days.

A family that earns at or below the following amounts has minimal income:

Family Size	Minimal income
1	$200
2	$250
3	$300
4	$350
5	$400
6	$450
7	$500
8	$550

Families that report zero or minimal income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

The PHA may request credit checks for adult members of families that report zero or minimal income.

Where credit reports show credit accounts open and payments current, the PHA will take action to investigate the possibility of fraud or program abuse.

J. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the PHA may calculate the Total Tenant Payment by:

- Excluding the income of the person permanently confined to the nursing home and not giving the family deductions for medical expenses of the confined family member or;
- Including the income of the person permanently confined to the nursing home and giving the family the medical deductions allowable on behalf of the person in the nursing home.

K. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609(a)(7)]

Regular, non-casual contributions and gifts received from persons outside the household are counted as income. This includes rent and utility payments made on a regular basis on behalf of the family and other regular cash or non-cash contributions. It does not include casual contributions or sporadic gifts.

A family benefit that is used almost exclusively by the family, but not titled to the family (i.e., automobile, storage unit), will be counted as income. If an employer provides an automobile that is used for both personal and business purposes, a proration of the expense payments will be counted as income based on the percentage of time the vehicle is used for personal purposes. Evidence of a business vehicle used for personal purposes may include the vehicle being stored

overnight at the family's residence five times a week or more and/or the lack of a personal vehicle for that family member.

If the family's expenses exceed its known income, the HACSD will inquire of the family regarding contributions and gifts.

L. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

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

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

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

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 60 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

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

M. ALIMONY AND CHILD SUPPORT [24 CFR 5.609(a)(7)]

Regular alimony and child support payment, including regular payments of alimony and/or child support in arrears, are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received is less than the amount awarded by the court, the PHA must use the amount awarded by the court unless the family can verify that they are not receiving the full amount.

The PHA will accept as verification that the family is receiving an amount less than the award if:

- The PHA receives verification from the agency responsible for enforcement or collection.
- Family notarized certification

It is the family's responsibility to supply a copy of the divorce decree.

N. LUMP-SUM RECEIPTS [24 CFR 5.609(b)(4 and 5), (c)(3 and 14)]

Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments (unemployment or welfare assistance) are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments that have accumulated due to a dispute will be treated the same as periodic payments that are deferred due to delays in processing. 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).

In order to determine amount of retroactive tenant rent that the family owes as a result of the lump sum receipt:

- The PHA will always calculate retroactively to date of receipt.

Retroactive Calculation Methodology

The PHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.

The PHA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the PHA.

At the PHA's option, the PHA may enter into a Repayment Agreement with the family. The amount owed by the family is a collectible debt even if the family becomes unassisted.

Attorney Fees

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered the lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

O. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Total combined family assets of $5000 or less will not be verified due to the negligible impact on family rent.

Due to the administrative burden, if there is a service charge of $1.00 or more to verify an asset, the PHA will use family documents, such as bank statements, to verify the asset, if available. If family documents are not available, the PHA will pay the applicable service charge to verify the asset.

Total assets will be counted, even if jointly owned by someone not part of the family, providing a family member has unlimited access to those assets. If the family has restricted access to those assets, the HACSD will prorate the family's asset share based on percentage of ownership. If there is no percentage of ownership, the HACSD will prorate the family's asset share evenly among all owners.

Assets not controlled by or accessible to the family, such as assets held in an irrevocable trust, will not be counted or considered. If there are disbursements to the family from these assets, depending of their regularity, they may either be counted as income or lump sum additions to family assets. Personal property, such as clothing, automobiles, and furniture will not be counted as assets, unless the personal property is an investment, such as a stamp collection, in which case the family's declaration of the investment's value will be used to determine the asset amount.

P. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS

Contributions to company retirement/pension funds are handled as follows:

While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.

After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

Q. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)]

The PHA must count assets disposed for $10,000 or more under fair market value during the two years preceding certification or reexamination. The PHA will count the difference between the market value and the actual payment received in calculating total assets. The difference will be included in calculating total assets for two years.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

R. CHILDCARE EXPENSES

Unreimbursed childcare expenses for children under 13 may be deducted from annual income if they enable an adult to work, actively seek work, attend school full time, or attend full-time vocational training.

In the case of a child attending private school, only before or after-hours care can be counted as childcare expenses.

If a tenant is eligible for the earned income disallowance, the amount of deduction for childcare expenses necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, the disregarded or excluded amounts cannot be used in determining the cap for the childcare expense deduction.

Childcare expenses must be reasonable. Reasonable is determined by what the average childcare rates are in the PHA's jurisdiction.

Allowability of deductions for childcare expenses is based on the following guidelines:

Childcare to work: The maximum childcare expense allowed must be less than the amount earned by the person enabled to work. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

Childcare for school: The number of hours claimed for childcare may not exceed the number of hours the family member is attending school (including [one hour/other amount] travel time to and from school).

Amount of Expense: The PHA will survey the local care providers in the community to determine what is reasonable. The PHA will use the collected data as a guideline. If the hourly rate materially exceeds the guideline, the PHA may calculate the allowance using the guideline.

S. MEDICAL EXPENSES [24 CFR 5.603]

Medical expenses are allowed only for elderly or disabled families. The IRS Publication 502 may be used as a guide to assist in determining allowable medical expenses in instances when the regulations or this Policy are unclear.

Medical expenses are expenses anticipated for the 12 months following certification or recertification, which are not covered by an outside source such as insurance, and which exceed three percent of the gross annual income of the family.

A Medicare Prescription Drug Program subsidy is not counted as income. All actual out- of-pocket expenses for prescription drugs purchased through the Medicare Prescription Drug Program are allowed as a medical expense deduction.

Families, who claim medical expenses, must submit a certification indicating if medical expenses have been, or will be, reimbursed by an outside source. It is the responsibility of the family to provide documentation of expenses in the format required by the HACSD. Expenses supported by confusing, unclear, or non-descriptive documentation will be disallowed. All medical expense claims will be verified by one or more of the methods listed below:

- Written verification by a California licensed doctor, hospital, clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) the expenses to be reimbursed by an insurance or a government agency
- Written confirmation by the insurance company, or employer, of health insurance premiums to be paid by the family
- Written confirmation from the Social Security Administration on Medicare premiums to be paid by the family over the next twelve months. A computer printout, or copy of award letter indicating Medicare deductions, will be accepted

For attendant care:

- A reliable, knowledgeable, professional's certification that the assistance of an attendant is necessary as a medical expense with a projection of the number of hours the care is needed.

An attendant's written confirmation of the hours of care provided, and the amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or pay stubs or written verification from the agency providing the services.

Receipts, canceled checks, or pay stubs that clearly reflect and describe medical costs and insurance expenses likely to be incurred in the next twelve months will be accepted.

Copies of payment agreements, or most recent invoices to verify payments made on outstanding medical bills will continue over all or part of the next twelve months.

Receipts or other records of medical expenses incurred during the past twelve months that can be used to anticipate future medical expenses may be accepted. The HACSD may use this approach for "general medical expenses," such as non-prescription drugs, and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.

Prescribed medicines and drugs: Must be prescribed by a doctor. The family must provide legible pharmacy receipts that clearly indicate the expense amount in U.S. dollars, date, and the type of medicine purchased.

Nonprescription medicines: To be allowed, the family must provide a current medical professional's written recommendation for the necessity of their use as a form of treatment for a specific medical condition, the name of the medicine, and the quantity recommended. The family must also provide legible receipts that clearly indicate the amount in U.S. dollars, date, type and quantity of medicine purchased.

Herbal medicines: To be allowed, the family must provide a medical professional's written recommendation for the necessity of their use as a necessary treatment for a specific medical condition, the name of the herbal medicine, and the quantity recommended. The family must also provide legible receipts that clearly indicate the amount in U.S. dollars, date, type and quantity of herbal medicine purchased.

Vitamins: To be allowed, the vitamins must be prescribed, purchased from a pharmacy, and accompanied by a medical professional's written recommendation for the necessity of their use as a necessary treatment for a specific medical condition. The family must also provide legible pharmacy receipts that clearly indicate the amount in U.S. dollars, date and type of vitamins purchased.

Mileage for San Diego County medical appointments: The HACSD will provide allowances for mileage expenses for medical appointments within San Diego County at the current IRS or departmental standard mileage rate, as long as copies of mileage logs are provided. The mileage logs must indicate the starting address, destination address, date of the trip, beginning and ending odometer readings, and the purpose of the trip. Only standard mileage, bus, cab, or trolley expenses will be allowed. Bus, trolley, or cab fare must be documented with legible receipts that provide the date and cost of the trip along with an explanation of the destination and purpose of the trip. Transportation expenses for medical appointments outside of San Diego County are not eligible medical expenses.

Medical services: To be allowed, the family must provide legible receipts that clearly indicate the medical services, the amount in U.S. dollars, dates of the services, the names and addresses of the medical providers, and if the providers are physicians, surgeons, specialists, or other medical practitioners.

Medical supplements in solid or liquid form: To be allowed, the supplements must be prescribed, purchased from a pharmacy, and accompany a medical professional's written recommendation for the necessity of their use as a treatment for a specific medical condition. The family must also provide legible pharmacy receipts that clearly indicate the amount in U.S. dollars, the date and type of supplements purchased.

Medical Insurance premiums: Must provide receipts or official documentation of current monthly premiums.

Ineligible Medical Expenses: Non-prescription medicines are limited to only those items found in the medicine aisle of a pharmacy and are only those items recommended for the treatment of a specific medical condition. Non-prescription medicines that are not for the treatment of a specific

medical condition, but recommended to maintain general health, or as a preventative treatment, are not eligible expenses. Personal use items are not an eligible expense.

Medical treatments in non-traditional medical settings are not eligible medical expenses unless they are administered or supervised by a medical professional.

Chiropractic services will be considered allowable medical expenses.

Physical Therapy/Exercises to Treat a Specific Disease or Medical Condition: Physical and mental health therapy expenses for treatment at non-traditional[1] settings are allowed as deduction off of annual income for elderly and/or disabled families, providing the treatment is necessary to treat a specific disease or medical condition, is prescribed by a licensed medical professional, and providing the treatment is administered and/or directly supervised by a licensed medical professional.

The expense for the use of recreational facilities (e.g., health club, gym, spa, massage center, tennis court, etc.) not directly administered and/or supervised by a licensed medical professional to ensure the facilities are being used in the prescribed manner, is **not** an allowed medical expense.

A licensed medical professional must provide a written statement indicating the type of therapy that is needed by the patient, whether the therapy is necessary to treat a specific disease or medical condition, the number of hours per week or month the therapy is to be provided, the setting or settings where the therapy may be provided, and whether the therapy is needed on an ongoing basis or the specific period of time the therapy is needed.

[1] As opposed to traditional physical or mental health therapy administered by licensed medical personnel at their medical offices, medical facilities, or hospitals.

A medical professional administering and/or supervising a therapy or treatment for a specific disease or medical condition must provide verification indicating the number of hours per week or month the medically prescribed therapy/treatment is being accessed.

In the case of allowed medical expenses for the use of recreational facilities, if the cost of the use of the facilities includes non-treatment services/activities, the medical expenses portion of the payment will be prorated based on the number of hours necessary to treat the specific disease/medical condition versus the overall number of hours the facility is available to the patient. For example, in the case of membership at a 24-hour/365 day fitness center at which the patient is prescribed one-hour daily/365 days a year of medically supervised exercises/physical therapy that are necessary to treat a specific medical condition or disease, the total allowable expenses would be 1/24th of the overall cost.

T. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES

[24 CFR 5.520]

Applicability

Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

"Mixed" families that were participants on June 19, 1995, and that do not qualify for continued assistance must be offered prorated assistance. (See Chapter titled "Reexaminations.") Applicant mixed families are entitled to prorated assistance. Families that become mixed after June 19, 1995, by addition of an ineligible member are entitled to prorated assistance.

Prorated TTP Calculation for Mixed Families

Prorated assistance will be calculated by subtracting the Total Tenant Payment from the flat rent for the unit the family occupies to determine the Family Maximum Subsidy. The family's TTP will be calculated by:

- Dividing the Family Maximum Subsidy by the number of persons in the family to determine Member Maximum Subsidy.
- Multiplying the Member Maximum Subsidy by the number of eligible family members to determine Eligible Subsidy.
- Subtract the amount of Eligible Subsidy from the flat rent for the unit the family occupies to get the family's prorated Total Tenant Payment.
- Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

Prorated Flat Rent for Mixed Families

Effective October 1, 2004, the maximum rents are the same as the flat rents.

U. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

The PHA will not reduce the public housing rent for families whose welfare assistance is reduced specifically because of:

- fraud; or
- failure to participate in an economic self-sufficiency program; or

- non-compliance with a work activities requirement

However, the PHA will reduce the rent if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment; or
- A situation where a family member has not complied with other welfare agency requirements.

Imputed welfare income is the amount of annual income not actually received by a family as a result of a specified welfare benefit reduction that is included in the family's income for rental contribution.

Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed.

When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

Verification Before Denying a Request to Reduce Rent

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction.

The welfare agency, at the request of the PHA, will inform the PHA of:

- amount and term of specified welfare benefit reduction for the family;
- reason for the reduction; and
- subsequent changes in term or amount of reduction.

Cooperation Agreements

The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self- sufficiency programs throughout the community that are available to public housing residents.

The PHA and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit public housing residents.

V. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR 960.253(c)(4)]

If the cost of utilities (excluding telephone) is not included in the Tenant Rent, a utility allowance will be deducted from the total tenant payment. The Utility Allowance is intended to help defray the cost of utilities not included in the rent. The allowances are based on the monthly cost of reasonable consumption of utilities in an energy conservative household, *not* on a family's actual consumption.

When the Utility Allowance exceeds the family's Total Tenant Payment, the PHA will provide a Utility Reimbursement Payment for the family each month. The check will be made out directly to the resident.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar-year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The PHA must issue reimbursements that exceed $15.00 per month on a monthly basis.

Resident-Paid Utilities

The following requirements apply to residents living in developments with resident-paid utilities or applicants being admitted to such developments:

When the supplier of utilities offers a "budget" or level payment plan, it shall be suggested to the resident to pay his/her bills according to this plan. This protects the resident from large seasonal fluctuations in the cost of utilities and ensures adequate heat in the winter. If the family is receiving TANF, the PHA will encourage the family to consider a vendor payment plan for rent and utilities.

If a resident or applicant is unable to get utilities connected because of a previous balance owed to the utility company, the resident/applicant will not be permitted to move into a unit with resident paid utilities. This may mean that a current resident cannot transfer to a scattered site or that an applicant cannot be admitted to a unit with resident-paid utilities.

Paying the utility bill is the resident's obligation under the lease. Failure to pay utilities is grounds for eviction.

W. EXCESS UTILITY PAYMENTS

Residents in units where the PHA pays the utilities may be charged for excess utilities if additional appliances or equipment are used in the unit. This charge shall be applied as specified in the lease. [24CFR 966.4(b)(2)]

X. FAMILY CHOICE IN RENTS

Authority for Family to Select

The PHA shall provide for each family residing in a public housing unit to elect upon initial lease and annually whether the rent paid by such family shall be 1) determined based on family income or 2) the flat rent. The PHA may not at any time fail to provide both such rent options for any public housing unit owned, assisted or operated by 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 or annual reexamination process.

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the PHA may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits PHAs to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

In order to demonstrate the need for an exception flat rent, PHAs are required to submit a market analysis methodology that demonstrates the value of the unit. The PHA must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, PHAs must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property/unit
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA and/or landlord for (comparable units in the market study)

The PHA must provide a corresponding key explaining the calculations used for determining the valuation for each factor.

Review of Flat Rents

The PHA shall ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b) and Notice PIH 2017-23. No later than 90 days after HUD publishes new annual FMRs, the PHA will revise flat rents as necessary based on the rent reasonableness analysis and changes to the FMR.

Posting of Flat Rents

The PHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable PHA or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The PHA shall maintain records that document the method used to determine flat rents, and that show how the flat rents were determined by the PHA in accordance with this method.

The PHA's flat rents are effective December 1, 2023, and are as follows:

Development	Flat **Rent**	**Minus the Utility Allowance**	**Adjusted Flat Rent**
Town Centre Manor			
1 BDRM	1592	47	**1545**
Melrose Manor			
2 BDRM	2072	77	**1995**
3 BDRM	2792	94	**2698**
L Street Manor			
3 BDRM	2792	96	**2696**
Dorothy Street Manor			
3 BDRM	2792	94	**2696**

The PHA shall review the income of all families paying flat rent not less than once every three years. The family composition shall be reviewed annually for all families, including those paying flat rent.

Income-Based Rents

The monthly Total Tenant Payment amount for a family shall be an amount, as verified by the PHA that does not exceed the greatest of the following amounts:

- 30 percent of the family's monthly adjusted income;

- 10 percent of the family's monthly income; or
- The PHA's Minimum TTP of $0.

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

[24 CFR 960.253(f)]

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent. Upon determination by the HACSD that a financial hardship exists, HACSD will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by the PHA to be appropriate. All hardship situations will be verified.

Once a family switches to income-based rent due to hardship, the family must wait until the next annual reexamination to elect whether to pay income-based rent or flat rent.

Phasing In Flat Rents

[Notice PIH 2017-23; 24 CFR 960.253(b)]

When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased-in at the time of their annual recertification. To do this, PHAs conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased-in, the PHA must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under the PHA's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2017-23 requires that flat rents must be phased in at the full 35 percent per year. PHAs do not have the option of phasing in flat rent increases at less than 35 percent per year.

Example: A family was paying a flat rent of $500 per month. At their annual recertification, the PHA has increased the flat rent for their unit size to comply with the new requirements to $700. The PHA conducted a flat rent impact analysis as follows:

$500 x 1.35 = $675

Since the PHA's increased flat rent of $700 resulted in a rent increase of more than 35 percent, the PHA offered the family the choice to pay either $675 per month or an income-based rent. The flat rent increase was phased in. At their next annual recertification in November 2015, the PHA will again multiply the family's current flat

Flat Rents and Earned Income Disallowance

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Annual Reexamination

90 to 120 days in advance of the annual reexamination, the family will be sent a form from the PHA, on which the family will indicate whether they choose flat rent or income-based rent. The PHA form will state what the flat rent would be, and an estimate, based on current information, what the family's income-based rent would be.

If the family indicates they choose flat rent, the family will fill out and return a PHA form to certify family composition. This form will be retained in the tenant file.

If the family indicates they choose income-based rent, a reexamination appointment will be scheduled according to PHA policy.

Chapter 7

VERIFICATION PROCEDURES

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

INTRODUCTION

HUD regulations require that the PHA verify the factors of eligibility and Total Tenant Payment. Applicants and program tenants must furnish proof of their statements whenever required by the PHA, and the information they provide must be true and complete. The PHA's verification procedures are designed to meet HUD's requirements and to maintain program integrity. This Chapter explains the PHA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and when there are changes in family members. The PHA will ensure that proper authorization for release of information is always obtained from the family before making verification inquiries.

A. METHODS OF VERIFICATION AND TIME ALLOWED (PIH NOTICE 2018-18)

The PHA will verify information with the highest level of verification techniques acceptable to HUD in the following order:

1. Up Front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
2. Up Front Income Verification using non- HUD system
3. Written Third-party Verification. (An original or authentic document generated by a third-party source)
4. Written Third-party Verification Form (A standardized form to collect information from a third-party source)
5. Oral Third-Party Verification (in person or via telephone directly from the third party)
6. Self-declaration

If UIV or third-party verification is not possible to obtain directly from the source, PHA staff will document in the file as to why third-party verification was impossible to obtain and attempt to obtain an oral third party, and document this attempt, before another method is used (such as reviewing documents families provide.) (See Chapter on Applying for Admission.)

The PHA will not delay the processing of an application beyond 10 days because a third-party information provider does not return the verification in a timely manner.

For applicants, verifications may not be more than 60 days old at the time of a unit offer. For tenants, verification must be dated within 120 calendar days of the PHA request. The documents must not be damaged, altered, or in any way illegible.

Up-front Income Verification

Up-front income verification (UIV) is information provided directly from a central information collection point, which includes the Enterprise Income Verification (EIV) System wage, pension, unemployment benefits, Social Security and Supplementary Security (SSI) income, the Work Number for wage income information, the local public assistance provider on-line informational link for Cal Works or TANF income, etc. If this income information is received from this source and is reliable, no other verification is required. EIV System will also be used to verify that families claiming zero income are not receiving income from any of these sources.

A UIV taken from the EIV system will not be disclosed to any party, but the party whom the information pertains to, even if another party provides a release of information. The UIV information taken from the EIV system may not be used to take an adverse action against the family but must be confirmed with a third-party verification before any action is taken.

If the UIV income information is less than the family's income figure, the PHA will use the family information.

If the UIV income information is more than the family's income figure, the PHA will use the UIV, unless the family provides documentation of a change in circumstances the explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the PHA will use the family-provided information.

If the UIV information for particular income sources differs from the information provided by the family by $200 or more per month or $2,400 annually, the PHA will follow these guidelines:

Request a written third-party verification from the discrepant income source in accordance with (24 CFR 45.236(b) (3)(i).

When the PHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, suspected fraud) the PHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The PHA will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

The PHA will use the most current income data and, if appropriate, historical income data to calculate the anticipated annual income.

Written Third-Party Verification

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail. The family will be required to sign an authorization for the information to authorize the source to release the specified information.

Verifications received electronically directly from the source are considered third-party written verifications.

Oral Third-Party Verification

Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete an oral contact certification form, noting with whom they spoke, the date of the conversation, and the facts provided. If oral third-party verification is not available, the PHA will compare the information to any documents provided by the Family. If provided by telephone, the PHA must originate the call.

Review of Documents

In the event that third-party written or oral verification is unavailable, and/or the written third-party information has not been provided by the third party within ten days, the PHA will utilize documents provided by the family as the primary source, if the documents provide complete information.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a certification form.

The PHA will accept the following documents from the family provided that the document is such that tampering would be easily noted:

- Printed wage stubs
- Computer printouts from the employer
- Signed letters (provided that the information is notarized or confirmed by phone)
- Other documents noted in this Chapter as acceptable verification
- The PHA may accept faxed documents.
- The PHA may accept legible photocopies.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the PHA will utilize the third-party verification.

Self-certification/Self-declaration

When verification cannot be made by third-party verification or review of documents, families will be required to submit self-certification.

B. RELEASE OF INFORMATION

All adults, and head of house and spouse regardless of age, are required to sign HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

In addition, the family will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886.

Each member requested to consent to the release of information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of tenancy because it is a family obligation under tenancy to supply any information requested by the PHA or HUD. Family members may not alter or amend required release forms or declarations. To do so would be handled as a failure to provide.

C. COMPUTER MATCHING

When the PHA receives notification from HUD that a family has been sent an "income discrepancy" letter, the PHA will:

- Wait 40 days after the date of notification before contacting tenant.

The PHA will fully document the contact in the tenant's file, including a copy of the letter to the family.

When the family provides the required information, the PHA will verify the accuracy of the income information received from the family, review the PHA's interim recertification policy, will identify unreported income, will charge retroactive rent as appropriate, and change the amount of rent or terminate assistance, as appropriate, based on the information.

If the amount of rent owed to the PHA exceeds $1000, the PHA will seek to terminate assistance.

If tenant fails to respond to PHA:

- The PHA will ask HUD to send a second letter.
- After an additional 40 days, the PHA will ask HUD to send a third letter.
- After an additional 40 days, the PHA will send a letter to the head of household, warning of the consequences if the family fails to contact the PHA within two weeks.

If tenant claims a letter from HUD was not received:

- The PHA will ask HUD to send a second letter with a verified address for the tenant. After 40 days, the PHA will contact the tenant family.
- If the tenant family still claims they have not received a letter, the PHA will ask HUD to send a third letter.
- After an additional 40 days, the PHA will set up a meeting with the family to complete IRS forms 4506 and 8821.

If the tenant family fails to meet with the PHA or will not sign the IRS forms, the PHA will send a warning letter to the head of household, notifying the family that termination proceedings will begin within one week if the tenant fails to meet with the PHA and/or sign forms.

If tenant does receive a discrepancy letter from HUD:

- The PHA will set up a meeting with the family.
- If the family fails to attend the meeting, the PHA will reschedule the meeting.
- If the family fails to attend the second meeting, the PHA will send a termination warning.
- The family must bring the original HUD discrepancy letter to the PHA.

If tenant disagrees with the Federal tax data contained in the HUD discrepancy letter:

- The PHA will ask the tenant to provide documented proof that the tax data is incorrect.
- If the tenant does not provide documented proof, the PHA will obtain proof to verify the Federal tax data using third party verification.

D. ITEMS TO BE VERIFIED

- All income not specifically excluded by the regulations.
- Excluded income to the extent necessary to determine its excluded income status
- Zero or minimal income applicants and residents will be required to complete a family expense form at each certification or recertification interview.
- Full-time student status including High School students who are 18 or over.
- Current assets including assets disposed of for less than fair market value in preceding two years.
- Childcare expense where it allows an adult family member to be employed, seek employment or to further his/her education.
- Total medical expenses of all family members in households whose head, spouse or co-head is elderly or disabled.
- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow an adult family member to be employed.
- Legal Identity
- U.S. citizenship/eligible immigrant status.
- Social Security Numbers for all family members 6 years of age or older or certification that a family member does not have a Social Security Number.
- Preference status, based upon PHA preferences.
- Familial/Marital status when needed for head or spouse definition.
- Disability for determination of preferences, allowances or deductions.
- Training program

E. VERIFICATION OF INCOME

This section defines the methods the PHA will use to verify various types of income.

Employment Income

- Verification forms request the employer to specify the:

- Dates of employment
- Amount and frequency of pay
- Date of the 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
- Estimated income from overtime, tips, and bonus pay expected during next 12 months

Acceptable methods of verification include:

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

Applicants and program tenants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the PHA will require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

Social Security, Pensions, Supplemental Security Income (SSI), Disability Income

Acceptable methods of verification include:

1. Benefit verification form completed by agency providing the benefits
2. Computer report electronically obtained or in hard copy.
3. Award or benefit notification letters prepared and signed by the providing agency.
4. Bank statements for direct deposits.

Unemployment Compensation

Acceptable methods of verification include:

1. Computer report electronically obtained or in hard copy, stating payment dates and amounts.
2. Verification form completed by the unemployment compensation agency.
3. Payment Stubs

Welfare Payments or General Assistance

Acceptable methods of verification include:

1. PHA verification form completed by payment provider.
2. 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.
3. Computer-generated Notice of Action.
4. Computer-generated list of recipients from Welfare Department.

Alimony or Child Support Payments

Acceptable methods of verification include:

1. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.
2. A notarized letter from the person paying the support.
3. 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.

If payments are irregular, the family must provide:

- A copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules.
- A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.
- A notarized affidavit from the family indicating the amount(s) received.
- A welfare Notice of Action showing amounts received by the welfare agency for child support.
- A written statement from an attorney certifying that a collection or enforcement action has been filed.

Net Income From a Business

In order to verify the net income from a business, the PHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months. The family must compile the information in a manner acceptable to the PHA, including recording the information in ledger records.

Acceptable methods of verification include:

1. IRS Form 1040, including:
   - Schedule C (Small Business)

- Schedule E (Rental Property Income)
- Schedule F (Farm Income)

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

2. Audited or unaudited financial statement(s) of the business.
3. Credit report or loan application.
4. Documents such as manifests, appointment books, cashbooks, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) 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.
5. Family's self-certification/notarized statement as to net income realized from the business during previous years.

The PHA may request the documentation identified in #4 above, regardless of the verification used.

Childcare Business

If an applicant/tenant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/tenant is operating a "cash and carry" operation (licensed or not), the PHA will require the applicant/tenant to complete a form for each customer giving: name of person(s) whose child(ren) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the family will be required to provide it.

Recurring Gifts

- The family must furnish a notarized statement that contains the following information:
- The person who provides the gifts
- The value of the gifts
- The regularity (dates) of the gifts The purpose of the gifts

Zero or Minimal Income Status

Families claiming to have zero or minimal income will be required to execute verification forms to determine that forms of income such as unemployment benefits, AFDC, SSI, etc. are not being

received by the household. The PHA may check records of other departments in the jurisdiction (such as government utilities) that have information about income sources of customers.

Full-Time Student Status

Only the first $480 of the earned income of full-time students 18 years of age or older, other than head or spouse, will be counted towards family income.

Financial aid, scholarships and grants received by full time students are not counted towards family income.

Verification of full-time student status includes:

- Written verification from the registrar's office or other school official.
- School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

Verification of Income Exclusions

The PHA will attempt third party verification of income exclusions wherever possible.

When third party verification of income exclusions is not possible or practical, a review of documents or notarized self-certification will be obtained.

Exclusions from income that must be verified and reported on the 50058 include the following:

- Expenditures for business expansion.
- The interest portion of payments on capital indebtedness used as business deductions
- Withdrawals of cash or assets from a professional or business operation if it is verified the withdrawal is a reimbursement for cash or assets invested in the operation by the family.
- Business asset depreciation is not allowed as an income exclusion
- Income from employment of children or foster children under 18 years old.
- Earnings in excess of $480 for each full-time student 18 years old or older (excluding head or household and spouse).
- Earned income disallowance.
- Amounts earned by temporary Census employees; terms of employment may not exceed 180 days for the purposes of the exclusion.
- Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by the resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in the development.
- Stipends to reimburse residents for expenses for serving as members of the PHA governing board or commission.

- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- Other military pay specifically excluded by law (e.g., active duty). Income of a live-in aide.
- Earnings and benefits from employment training programs funded by HUD.
- Reimbursement for out-of-pocket expenses while attending a public assisted training program.
- Incremental earnings and benefits from participation in qualifying state and local employment programs.
- Payments to volunteers under the Domestic Volunteer Services Act.
- Payments received under programs funded in whole or in part under the Workforce Investment Act (WIA) (formerly known as the Job Training Partnership Act (JTPA)).
- Earnings and benefits to any family member from an employment training and supportive services program during the exclusion period. The exclusion is applicable only if the family was admitted to the qualifying program prior to October 1, 1999.
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- Food Stamps.
- Annual Imputed Welfare Income if the family was not an assisted resident at the time of sanction.
- Nonrecurring, short-term benefits under TANF assistance that:
  - Are designed to deal with a specific crisis situation or episode of need.
  - Are not intended to meet recurrent or ongoing needs; and
  - Will not extend beyond four months

- Work subsidies under TANF assistance (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training).
- Supportive services under TANF assistance such as childcare and transportation provided to families who are employed.
- Refundable earned income tax credits. Individual Development Accounts under TANF.
- Services provided under TANF assistance such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support.
- Transportation benefits under TANF assistance provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.
- Lump-sum pension benefits payable as a death benefit.

- Deferred periodic amounts from SSI benefits that the family member received in a lump sum amount or in prospective monthly amounts.
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of SSI eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
- Deferred periodic amounts from Social Security benefits that the family member received in a lump sum amount or in prospective monthly amounts.
- Childcare assistance arranged or provided under the Child Care and Development Block Grant Act.
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
- Payments received under the Alaska Native Claims Settlement Act.
- Income derived from certain sub marginal land or the United States that is held in trust for certain Indian tribes.
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians. The first $2000 of per capita shares from judgment funds awarded by Indian Claims.
- Payments received under the Maine Indian Claims Settlement Act of 1980.
- Payments received by Indian Claims Commission to the Confederate Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation.
- The first $2000 of income received by individual Indians derived from interests or trust or restricted land.
- 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). Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2008-40].
- Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance, and worker's compensation), capital gains and settlement for personal or property losses.
- Full amount of student financial assistance paid directly to the student or to the educational institution, excluding the housing component of athletic scholarships which must be counted as income.
- Temporary, nonrecurring or sporadic income (including gifts).
- 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.
- Adoption assistance payments in excess of $480 per adopted child.
- Refunds or rebates under state or local law for property taxes paid on dwelling unit.

- Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.
- Payments or allowances under DHHS' low-income home energy assistance program (LIHEAP).
- Federal scholarships funded under Title IV of The Higher Education Act of 1965, including awards under the Federal Work Study Program or under the Bureau of Indian Affairs Student Assistance Program.
- Payments received from programs funded under Title V of the Older Americans Act of 1965.
- Payments received on or after January 1, 1989 from the Agent Orange Settlement Fund, or any fund established pursuant to the settlement in the In Re Agent Orange product liability litigation.
- Earned Income Tax Credit refund tax payments.
- Any allowance paid under provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is a child of a Vietnam Veteran.
- Any amount of crime victim compensation that the applicant (under the Victims' Crime Act) receives through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims Crime Act because of the commission of a crime against the applicant.

F. VALUE OF ASSETS AND ASSET INCOME [24 CFR 960.259]

For families with net assets totaling $5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process, whenever a family member is added, and at least every three years thereafter.

PHA Policy

For families with net assets totaling $5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

Acceptable methods of verification include:

Savings Account Interest Income and Dividends

Will be verified by:

1. Account statements, passbooks, certificates of deposit, or PHA verification forms completed by the financial institution.
2. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
3. IRS Form 1099 from the financial institution provided that the PHA must adjust the information to project earnings expected for the next 12 months.

Interest Income from Mortgages or Similar Arrangements:

1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown.)
2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

Net Rental Income from Property Owned by Family

1. IRS Form 1040 with Schedule E (Rental Income).
2. Copies of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, and bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. Lessee's written statement verifying rent payments to the family and family's notarized statement as to net income realized.

G. VERIFICATION OF ASSETS

Family Assets

The HACSD will require the information necessary to determine the current cash value of the family's assets. "Cash value" is the net amount the family would receive if the assets were converted to cash.

Due to the added administrative cost, the HACSD will not attempt a third-party verification of any asset in which the source collects a service charge of $1.00 or more and the family has available original documents, such as bank statements. If the family cannot provide original documents, the HACSD will pay the service charge for the third-party verifications.

1. Verification forms, letters, or documents from a financial institution or broker.
2. Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
3. Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate.

4. Real estate tax statements if the approximate current market value can be deduced from assessment.
5. Financial statements for business assets.
6. Copies of closing documents showing the selling price and the distribution of the sales proceeds.
7. Appraisals of personal property held as an investment.
8. Family's Notarized Statement describing assets or cash held at the family's home or in safe deposit boxes.

Self-Certification [24 CFR 960.259, 24 CFR 982.516]

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

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total $5,000 or less and the PHA has adopted a policy to accept self- certification at annual recertification, when applicable
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 12)

When the PHA was required to obtain third-party verification but instead relied 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.

PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the 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, Managing Agent, or PHA notary public.

Assets Disposed of for Less than Fair Market Value (FMV) during two years preceding effective date of certification or recertification.

For all Certifications and Recertifications, the PHA will obtain the Family's certification as to whether any member has disposed of assets for more than $10,000 less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for more than $10,000 less than fair market value, a certification is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third-party verification will be obtained wherever possible.

H. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME

Childcare Expenses

Written verification from the person who receives the payments is required. If the childcare provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

Verifications must specify the childcare provider's name, address, telephone number, Tax Identification Number, the names of the children cared for, the number and schedule of hours the childcare occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

Medical and Disability Assistance Expenses

Families who claim medical expenses or expenses to assist a person(s) with disabilities will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

   For attendant care:

   - Reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
   - Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled

checks the family used to make those payments) or stubs from the agency providing the services.

4. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
5. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
6. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. PHA may use this approach for "general medical expenses", such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year. The PHA will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

Assistance to Persons with Disabilities:

In all cases:

Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.

Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Attendant Care:

Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.

Certification of family and attendant and/or copies of canceled checks family used to make payments.

Auxiliary Apparatus:

Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.

In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

I. VERIFYING NON-FINANCIAL FACTORS

Verification of Being the Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

There must be documentation that indicates the time frame that the violent acts occurred, names the perpetrator of the abuse and whether they were directly attributable to the violations. The documentation must be signed by the victim and one of the following sources:

Police or court records

(1) an employee, agent or volunteer of a victim service provider; (2) an attorney; (3) a medical professional; or (4) a mental health professional whom the applicant or tenant has sought counseling as a result of the domestic violence, dating violence, sexual assault or stalking who states under penalty of perjury of knowledge of the violent acts based on working with the victim.

A certified statement from the victim is not in itself sufficient documentation.

Verification of Legal Identity

In order to prevent program abuse, the PHA will require applicants to furnish verification of legal identity for all family members. All adult family members must provide a state picture identification or driver's license.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

- Certificate of birth, naturalization papers
- Church issued baptismal certificate
- Current, valid driver's license
- U.S. military discharge (DD 214)
- U.S. passport
- Voter's registration
- Company/agency identification card
- Department of Motor Vehicles identification card

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- Certificate of birth
- Adoption papers
- Custody agreement
- Health and Human Services identification card
- School records

If none of these documents can be provided, a third party who knows the person may, at the PHA's discretion, provide verification.

The certification must be provided in a format acceptable to the PHA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

Verification of Marital Status

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

Verification of a separation may be a copy of court-ordered maintenance or other records. Verification of marriage status is a marriage certificate.

Familial Relationships

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will be required if certification is insufficient: Verification of relationship:

- Official identification showing name
- Birth certificates
- Baptismal certificate
- Verification of guardianship is:
- Court-ordered assignment Affidavit of parent
- Verification from social services agency
- School records

Evidence of an established family relationship:

- Joint bank accounts or other shared financial transactions
- Leases or other evidence of prior cohabitation
- Credit reports showing relationship

Split Households: Domestic Violence

Verification of domestic violence when assessing applicant split households includes:

- Shelter for battered persons
- Police reports

- District Attorney's office
- Court records

Verification signed under penalty of perjury by: (1) an employee, agent or volunteer of a victim service provider; (2) an attorney; (3) a medical professional; or (4) a mental health professional whom the applicant or tenant has sought counseling as a result of the domestic violence

Verification of Permanent Absence of Adult Member

If an adult member who was formerly a member of the household is reported permanently absent by the family, the PHA will consider any of the following as verification:

- Husband or wife institutes divorce action.
- Husband or wife institutes legal separation.
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
- Statements from other agencies such as social services that the adult family member is no longer living at that location.

If no other proof can be provided, the PHA will accept a Notarized Statement from the family.

If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.

Verification of Change in Family Composition

The PHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, and other sources.

Verification of Disability

Verification of disability must be receipt of SSI or SSA disability payments under 42 U.S.C. Section 423(d)(1)(A) of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehabilitation specialist, or licensed social worker, using the HUD language as the verification format. (Note that verification of disability for purposes of reasonable accommodation or modification will be according to the Service and Accommodations Policy section of Chapter 1.)

Verification of Citizenship/Eligible Immigrant Status

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants.

Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending, except that assistance to applicants may be delayed while the PHA hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.

Eligible Immigrants who are 62 or over are required to sign a declaration of eligible immigration status and provide proof of age.

Noncitizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The PHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the PHA must request within ten days that the INS conduct a manual search.

Family members who do not claim to be citizens or eligible immigrants must be listed on a statement of non-contending family members signed by the head of household or spouse.

Noncitizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of non-contending members.

Failure to Provide. If an applicant or tenant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

Time of Verification. For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination. For tenant families, it is done at the first regular recertification after June 19, 1995. PHAs that previously elected to "opt out" must immediately commence verification of families for whom eligibility status has not been undertaken. For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in. Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial PHA does not supply the documents, the PHA must conduct the determination.

Extensions of Time to Provide Documents. The PHA will grant an extension of 30 days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration. The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

1. Resident Alien Card (I-551)
2. Alien Registration Receipt Card (I-151)

3. Arrival-Departure Record (I-94)
4. Temporary Resident Card (I-688)
5. Employment Authorization Card (I-688B)
6. Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

Verification of Social Security Numbers

Social security numbers must be provided as a condition of eligibility for all family members six and over, if they have been issued a number. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration.

If a family member cannot produce a Social Security Card, only the documents listed below showing his/her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card is/are complete and accurate:

- A valid driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by a medical insurance company Earnings statements or payroll stubs
- Bank Statements IRS Form 1099
- Benefit award letters from government agencies Retirement benefit letter
- Life insurance policies
- Court records (real estate, tax notices, marriage, divorce, judgment or bankruptcy records) Verification of benefits or SSN from Social Security Administration

New family members, ages six and older, will be required to produce their Social Security Card or provide the substitute documentation described above, together with their certification that the substitute information provided is complete and accurate. This information is to be provided at the time the change in family composition is reported to the PHA.

If an applicant or tenant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or tenant must sign a certification to that effect provided by the PHA. The applicant/tenant or family member will have an additional 60 days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's tenancy will be terminated.

In the case of an individual at least 62 years of age, the PHA may grant an extension for an additional 60 days up to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's tenancy will be terminated.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

Medical Need for Larger Unit

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional.

J. VERIFICATION OF SUITABILITY FOR ADMISSION

Sources to be used to determine suitability include but are not limited to:

- Criminal History Reports
- Prior landlord references
- Physicians, social workers, and other health professionals if required to verify disability and disability-related need for an accommodation, modification or for consideration of mitigating circumstances relative to a denial of admission
- Housing Authority of the County of San Diego and Other PHAs (to whom the family may owe debt)

(See Chapter 2 on Eligibility.)

Ability to meet financial obligations under the lease

All applicants will be subject to the following procedures to ensure their ability to meet financial obligations under the lease:

- All applicants will be interviewed and asked questions about the basic elements of tenancy. The PHA will access a Credit Report on all applicants prior to selection.
- The PHA will determine if applicants owe any monies from previous tenancy or participation in any HUD housing program.
- The PHA will independently verify the rent-paying history of all applicants for the previous five years directly with the landlord(s).

Drug-related or violent criminal activity

The PHA will complete a criminal background check of all applicants including other adult members in the household, or any adult member for which criminal records are available.

Housekeeping

The PHA will obtain references from prior landlords for the previous five years to determine acceptable housekeeping standards.

The PHA may conduct a home visit prior to admission.

K. VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 960.206]

Local Preferences

1. **Residency Preference**: For families, who live, work or have been hired to work in the jurisdiction of the PHA.
    a. In order to verify that an applicant is a resident, the PHA, with the exception of homeless applicants, will require a minimum of three of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, `credit reports, statement from household with whom the family is residing.
    b. For families who have been hired to work in jurisdiction of the PHA, a statement from the employer will be required.
    c. For homeless applicants, self-declaration and documentation demonstrating they were living in San Diego County are sufficient.

2. **Veterans Preference**: This preference is available to current members of the U.S. Military Armed Forces, veterans, or surviving spouses of veterans.
    a. The PHA will require U.S. government documents, which indicate that the applicant qualifies under the above definition.
3. **Working Preference**: This preference is available for families where the head of household, spouse, or sole member is employed and has worked an average of at least 20 hours per week for the previous six months, or meets other requirements as outlined in Chapter 4.. The PHA will require the working member's recent paystub(s) or a statement from the employer. If the preference is based on head of household, spouse, or sole member receiving unemployment, disability, or worker's compensation, the PHA will require recent benefit statements or award letters. The PHA will also give the benefit of this preference to families where the head of household, spouse or co- head is age 62 or older; and to families where the head of house or spouse meets the disability definition in CFR 5.403.

4. **Educational/Training Tenants**: This preference is available for families who are graduates of or tenants in educational or training programs designed to prepare the individual for the job market. The PHA will require a statement from the agency or institution providing the education or training.

5. **Families with Dependent Children**. This preference is available to families who have dependent children who currently live or will be living with the family in the public housing unit. The PHA will require copies of birth certificates and Social Security Cards of the children, as well as absent parent and child support documentation, if applicable.

6. **Homeless.** This preference is available to those who are either without housing or are residing in non-residential dwellings. The PHA will require documentation to verify that the family or individual is living in San Diego County, such as a driver's license, pay stub, etc. In addition, if the family or individual cannot provide documentation that they were living in the jurisdiction of the PHA, a notarized declaration will be acceptable. Motel, food, or other receipts may be accepted as documentation of the residency preference.

Chapter 8
TRANSFER POLICY

INTRODUCTION

The transferring of families is a very costly procedure, both to the PHA and to the families. However, it is the policy of the PHA to permit a resident to transfer within or between housing developments when it is necessary to comply with occupancy standards; or when it will help accomplish the Affirmative Housing goals of the PHA. The transfer policy will be carried out in a manner that does not violate Fair Housing.

For purposes of this transfer policy the "losing development" refers to the unit from which the family is moving and the "gaining development" refers to the unit to which the family is transferring.

A. GENERAL STATEMENT

It is the policy of the PHA to require or permit resident transfers, within and/or between PHA public housing developments for the following reasons:

1. To abate dangerous and/or substandard living conditions.
2. To abate emergency life-threatening living conditions caused by third-party criminal activity;
3. To accommodate verified disability-related needs; and
4. To accommodate resident families that are determined to be over- or under-housed, by virtue of their family size.

If there is an absence of eligible applicants on the waiting list, a family may be approved to transfer for the following reasons:

1. Live closer to a place of employment; or
2. Live closer to a relative who will care for children of a working parent; or Live closer to a required medical treatment center; or
3. Live in areas providing more opportunity for economic self-sufficiency; or
4. Move into a lower income public housing development (for a higher-income family).

The PHA will always consider a request to transfer as a reasonable accommodation for a person with a disability, such as a request to move from an upstairs to a downstairs unit for disability-related reasons.

B. ELIGIBILITY FOR TRANSFER

In order to be determined eligible to receive a transfer, residents must submit the requisite documentation to the PHA, to substantiate their request, must pass a criminal history screening, and must be in good standing with the PHA.

Families transferring to another development must have paid the security deposit in full at the losing development. Any move-out charges will be posted to the new unit to be charged to the family.

Except in emergency situations, transfers will be denied when the family is:

1. Delinquent in their rent;
2. In the process of reexamination to determine rent and eligibility; or
3. About to be asked to move for reasons other than non-payment of rent.
4. Not in good standing with the PHA due to rental history or a history of disturbances.

The PHA will not grant a transfer request solely to accommodate neighbors who "cannot get along."

Tenants who are not in good standing may still request an emergency transfer under Violence Against Women Act of 2013 (VAWA) provided they meet the eligibility requirements outlined in the PHA's emergency transfer plan [FR Notice 11-16-16].

C. PRIORITY OF TRANSFERS

The Transfer Waiting list will be maintained in rank order according to the following priorities, subject to available vacancies:

Emergency

Executed within 48 hours of documentation, verification and approval.

Transfer will be within the housing development unless emergency transfer cannot be accomplished in this manner.

Disability-related transfers

Executed within 60 days of documentation, verification and approval.

Transfer will be within the housing development unless appropriate unit is not available to meet the family's needs within the development.

Disability-related transfers are initiated by written family request.

Underhoused (Overcrowded)

Executed when family's name reaches the top of transfer list and authorized unit is available. The family is not considered overcrowded until all sleeping areas, including the living room, are being utilized.

Transfer will be within the housing development unless size and type of unit required does not exist within that development's inventory

Transfers are initiated by the PHA and/or written family request.

Overhoused

Executed within 30 days of notification that an authorized unit will be available.

Transfer will be within the housing development unless the size and type of unit required does not exist within that development's inventory.

Transfers are initiated by the PHA and/or written family request.

Family above the Established Income Range moving into a development below the Established Income Range, or vice versa.

Not applicable. The PHA is not subject to deconcentration and income-mixing requirements because each of its developments has less than 100 units.

D. EMERGENCY TRANSFER

The PHA will authorize an emergency transfer for a participant family if one of the following conditions occurs:

1. The resident's unit has been damaged by fire, flood, or other causes to such a degree that the unit is not habitable, provided the damage was not the result of an intentional act, carelessness, or negligence on the part of the resident or a member of the resident's household.
2. Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours.
3. The transfer of a victim of domestic violence, dating violence, sexual assault, or stalking is considered an Emergency transfer, providing there is a restraining order or police report to support the victim's status.

The PHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. The PHA will allow a tenant to make an internal emergency transfer

under VAWA when a safe unit is immediately available. The PHA defines *immediately available* as a vacant unit that is ready for move-in within a reasonable period of time, not to exceed 60 days. If an internal transfer to a safe unit is not immediately available, the PHA will assist the resident in seeking an external emergency transfer either within or outside the PHA's programs.

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

The PHA has adopted an emergency transfer plan, which is included in Chapter 18 of this policy.

E. SPECIAL CIRCUMSTANCES TRANSFER

The PHA will authorize transfers under special circumstances for a participant family if one of the following conditions occurs:

The resident's unit is being modernized or significantly remodeled.

> In such cases the family may only be offered temporary relocation if allowed under Relocation Act provisions and may be allowed to return to their unit, depending on contractual and legal obligations, once rehabilitation is complete. Temporary relocation is defined as when a resident needs to be relocated for a period no longer than 12 months because the unit or site will undergo a capital improvement or major rehabilitation project that requires the unit to be vacant.

Depending on funding and the length of time that a resident may need to vacate the unit, a resident may be referred for a Section 8 Housing Choice Voucher (HCV). Generally, the HCV Program is limited to families earning 50% of Area Median Income (AMI), adjusted by household size, as compared to an income-limit of 80% of AMI for the Public Housing Program. However, because families in Public Housing are considered "continuously assisted" under HUD regulations, eligible families in good standing may be offered a voucher.

A resident in good standing means that a resident is current on their rent and in compliance with their lease. Being current on rent means the household has paid the prior month's rent and does not owe any back rent to HACSD or, if there is back rent owed, the household has entered into a repayment agreement with HACSD and is following the terms of that agreement. Being "in compliance with the lease" means the household has not been served with an eviction notice, written notice of violation or been evicted. If a household or one of its members has been issued a Notice to Vacate or has otherwise been informed in writing that they are not in compliance with their lease, and the case has not been resolved at the time relocation is necessary, HACSD will not issue the family a voucher at that time. If the case is resolved, or if a court rules in favor of the resident, HACSD will provide a voucher at that time.

Residents that are offered a voucher as a voluntary permanent relocation option under a Relocation Plan, will be issued a voucher for a period of 90 days to locate a unit. Extensions on the vouchers will only be considered on a case-by-case basis due to extenuating circumstances or as a reasonable accommodation for a person with disabilities. Residents who move with a voucher will be exited from the Public Housing program upon lease-up and would have to reapply to the Public Housing waiting list.

Eviction by the PHA, related to a Relocation Plan, may be undertaken for one or more of the following reasons:

1. Failure to pay rent, except in those cases where the failure to pay is due to the HACSD's failure to keep the premises in habitable condition; is the result of harassment or retaliatory action; or is the result of discontinuation or substantial interruption of services beyond the control of the HACSD;
2. Performance of a dangerous and/or illegal act in the unit by tenant, tenant's guest(s) and/or invitee(s) or any combination thereof;
3. A material breach of the rental agreement and failure to correct breach within 30 days of Notice;
4. Maintenance of a nuisance and failure to abate such nuisance upon notification within a reasonable time following Notice;
5. Failure to accept temporary accommodations and temporarily vacate the unit when requested; or
6. A requirement under State or local law or emergency circumstances that cannot be prevented by reasonable efforts on the part of the HACSD.

Residents assisted under a Relocation Plan residing in a temporary location, such as an extended stay hotel, are expected to follow the rules of the property in addition to abiding by the Public Housing lease. Depending on the severity of the breach, failure to follow the rules could result in an exit from the temporary location and may be considered a Public Housing program violation. Relocation appeals pertaining to determination of eligibility, payment amounts, failure to provide comparable temporary housing or HACSD's property management practices will follow the Grievance Procedures outlined in the Relocation Plan. All other appeals will follow the Grievance Procedures outlined in Chapter 14 of the ACOP.

In the event a resident is displaced for more than 12 months, a resident will be offered permanent displacement assistance according to Relocation Act requirements.

There is a reasonable fear of direct violence against the resident. Such transfer requests may include a fear of retaliation for witnessing an incident, or providing testimony or evidence in an eviction or criminal proceeding, or fear of being the victim of a hate crime.

The PHA will seek input from local law enforcement regarding all requests for transfers due to threat of violence.

Transfers due to threat of violence shall have priority over other transfers except for emergency transfers.

The PHA has a need, at the discretion of the Executive Director or designee, to transfer the resident family to another unit and the resident voluntarily agrees to such transfer.

F. MANDATORY TRANSFERS

If there is a required change in the size of unit due to being over-housed or overcrowded, it will be necessary for the resident to move to a unit of an appropriate size and a new lease will be executed.

If an appropriate unit is not available, the resident will be placed on a transfer list and moved to such unit when it does become available.

The PHA will place all families requiring a mandatory transfer due to occupancy standards on a transfer list, which will be reviewed for need-based transfers before any unit is offered to a family on the waiting list.

The family will be offered the next appropriately sized unit that becomes available after other such families already on the transfer list who are in need of the same size unit.

If a family that is required to move refuses the offered unit, the PHA will evaluate the reason for the refusal and determine if it is one of good cause. If the PHA determines that there is no good cause, the PHA will begin lease termination proceedings.

The PHA will consider the living area for occupancy standards, so that the family may avoid losing their assistance.

The PHA will offer the family an opportunity for an informal conference before terminating the family's lease. The family will have 14 working days from the issue date of the Notice to Terminate to request an informal conference.

G. NON-MANDATORY TRANSFERS

When a unit becomes available, and after the transfer list has been reviewed for families requiring a mandatory transfer based on occupancy standards, the transfer list will be reviewed for other families needing a transfer due to threat of violence. Others desiring a transfer will not be considered if there are eligible applicants on a waiting list.

If there is a participant family waiting for transfer to an available and appropriately sized unit, the participant family will be offered the unit.

If a family is on an inventory-wide transfer list and refuses an offered unit, they will be removed from the transfer list unless the PHA determines that the refusal was made for good cause. If so, the family will be allowed to remain in their unit and will remain on the transfer list until another unit is offered.

- Good cause may be any of the following reasons:
- The new unit is more than 20 miles from the place of employment, job training program or school of at least one member of the family.
- Travel for medical treatment from the new unit would create a hardship for an elderly or disabled person.
- The inconvenience or undesirability of changing schools for any minor child will not be considered good cause.

H. MOVING COSTS

The resident will pay all moving costs related to the transfers that were voluntarily requested by the household or were necessary as a result of changes in family circumstances, such as family size, etc.

The PHA will bear the reasonable costs of a transfer required by the PHA. Transfers required by the PHA may be due to inhabitability of the unit through no fault of the resident, as a reasonable accommodation for a resident with a disability, or if the resident's unit is being modernized or significantly remodeled. Reasonable costs may include the cost of packing, moving, and unloading. If transfer is in conjunction with a Relocation Plan, other costs may be outlined as applicable.

I. SECURITY DEPOSITS

The family will be required to pay a new deposit and upon acceptance of a unit will be informed of the manner in which it is to be paid.

The PHA will require a new security deposit of all families that request a transfer for personal reasons.

Security deposits will always be transferred from the losing development to the gaining development, minus any damage or cleaning charges applicable to the losing unit.

The resident will be billed for any charges that occur as a result of the resident moving out of the apartment.

J. PROCESSING TRANSFERS

There will be no lapsed time between move-out and move-in. Effective dates must not overlap, nor will both projects carry the resident on their books at the same time.

The resident's records will show a continuous residence in public housing in one development or the other, but not in both projects at the same time.

In order to request an emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383). The PHA may, on a case-by- case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the PHA accepts an individual's statement, the PHA will document acceptance of the statement in the individual's file. Transfer requests under VAWA will be processed in accordance with the PHA's Emergency Transfer Plan (Attachment C). In case of a reasonable accommodation transfer, the PHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the PHA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

K. REEXAMINATION DATE

An interim examination, verifying income only, will be conducted at the time of lease up and the family will have a new reexamination date.

Chapter 9
LEASING
[24 CFR 966.4]

INTRODUCTION

It is the PHA's policy that all units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations [24 CFR Part 966]. This Chapter describes pre- leasing activities and the PHA's policies pertaining to lease execution, security deposits, other charges, and additions to the lease.

A. LEASE ORIENTATION

Upon execution of the lease, a PHA representative will provide a lease orientation to the family head and spouse. The orientation may be conducted with more than one family.

Orientation Agenda

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

- A copy of the lease
- A copy of the PHA's lease and grievance procedure
- A copy of the House Rules;
- A copy of "Is Fraud Worth It?" (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse;
- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12;
- A copy of the form HUD-5380, Violence Against Women Act of 2013 (VAWA) Notice of Occupancy Rights (see Chapter 18);
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (see Chapter 18);
- A copy of the PHA's smoke-free policy;

Topics to be discussed will include, but are not limited to:

- Applicable deposits and other charges;
- Provisions of the lease;
- Family Choice of rents;
- Orientation to the community;

- Unit maintenance and work orders;
- Explanation of occupancy forms;
- Terms of occupancy;
- Community Service and Self Sufficiency Requirements (CSSR);
- Lead-based paint disclosure notice;
- Lead hazard information pamphlet;
- VAWA protections;
- Smoke-free policy (see Exhibit 9-1).

B. LEASE REQUIREMENTS

The initial term of the lease will be 12 months. The lease will renew automatically for 12- month terms, except for noncompliance with the community service requirement and/or if the family is determined to be over income for 24 consecutive months [24 CFR 966.4(a)(2)].,

Because the lease automatically renews for terms of 12 months, an annual signing process is not required.

C. EXECUTION OF LEASE

The lease shall be executed by the head of household, spouse, and all other adult members of the household, and by an authorized representative of the PHA, prior to admission.

The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

An appointment will be scheduled for the parties to execute the lease. One executed copy of the lease will be given to the tenant, and the PHA will retain one in the tenant's file. The lease is incorporated into this policy by reference. The lease document will reflect current PHA policies as well as applicable Federal, State and local law.

The following provisions govern lease execution and amendments:

1. A lease is executed at the time of admission for all new tenants.
2. A new lease is executed at the time of the transfer of a tenant from one PHA unit to another (with no change in reexamination date).
3. If, for any reason, any signer of the lease ceases to be a member of the household, the lease will be amended by drawing a line through the party's name and both parties will be required to initial and date the change.
4. Lease signers must be persons legally eligible to execute contracts.
5. If no member of the household is qualified to sign a lease, a legal guardian may co- sign the lease, subject to PHA approval.

6. The names and date of birth of all household members are listed on the lease at initial occupancy and on the Application for Continued Occupancy each subsequent year. Only those persons listed on the most recent certification shall be permitted to occupy a dwelling unit.
7. Changes to tenant rents are made upon the preparation and execution of a "Notice of Rent Adjustment" by the PHA, which becomes an attachment to the lease. Documentation will be included in the tenant file to support proper notice.
8. Households that include a Live-In Aide are required to execute a lease addendum authorizing the arrangement and describing the status of the attendant.
9. Households that include a Live-In Aide will contain file documentation that the Live-In Aide is not a party to the lease and is not entitled to PHA assistance, with the exception of occupancy while serving as the attendant for the participant family member.
10. The PHA may modify its form of lease from time to time, giving tenants an opportunity to comment on proposed changes and advance notice of the implementation of any changes. A tenant's refusal to accept permissible and reasonable lease modifications, or those modifications required by HUD, is grounds for termination of tenancy.

D. ADDITIONS TO THE LEASE

Except as indicted below, the PHA must approve requests for the addition of new members of the household, prior to the actual move-in by the proposed new member.

Following receipt of a family's request for approval, the PHA will conduct a pre-admission screening, including the Criminal History Report, of the proposed new member. Only new members approved by the PHA will be added to the household.

Unrestricted Admissions

Additions through birth, adoption, court-awarded custody and the return of disabled or minor children to the household do not require prior approval, but the family is still required to report these additions within 14 days, and these additions are still subject to family eligibility requirements, such as criminal history prohibitions.

Partially Restricted Admissions

The addition of foster children is allowed with prior PHA approval. They may not be added if the family will be overcrowded.

The addition of a Live-In Aide is allowed with prior PHA approval. Live-in aides may not be added if the family will be overcrowded, but the family may transfer to accommodate the Live-In Aide.

Restricted Admissions

All admissions to the household not categorized above are limited to a total of two people in 12 months. However, a family may not add a restricted admission for the first 12 months after initial occupancy of the unit. Each adult admission must have current income and steady income for the previous 12 months. If the income is from employment, they are required to be employed a minimum of 20 hours per week for the previous 6 months. They may not be added if the unit is overcrowded, and they will not be approved without the PHA's permission. Exceptions to the income requirement for close blood relatives of the head of household or spouse may be granted

based on documented extreme hardship or serious medical reasons, providing the family will not be overcrowded.

Factors determining household additions:

1) Household additions subject to screening:
    - Resident plans to marry;
    - Resident is awarded custody of a child over the age for which juvenile justice records are available;
    - Resident desires to add a new family member to the lease, employ a live-in aide, or take in a foster child(ren).
    - A unit is occupied by a remaining family member(s) under age 18 (not an emancipated minor) and an adult who was not a member of the original household requests permission to take over as the head of household.
2) Factors determining household additions that are not subject to screening:
    - Those added through birth, adoption, court-awarded custody, or return of minor or disabled children to the household.
3) Factors determining household additions that may be subject to screening, depending on PHA discretion:

The PHA will request that the public housing tenant provide the PHA with a signed consent form from the parent(s) or legal guardian allowing the PHA to check the juvenile records of the child. Sources to be checked may include any of the following:

- School Records (attendance/behavior)
- Juvenile Probation/Court Records
- Police Records

4) Each adult admission, except those listed above, must have income and a steady income history for the last 6 months. If working, they must have a work history of at least 20-hours a week for the last year. In cases where the addition will affect the bedroom size required by the family, according to the PHA occupancy standards, the PHA will not approve the addition.
5) The PHA will not approve adding a family consisting of more than two members to the lease, nor will the PHA approve more than a total of two peopled added to the lease in a 12-month period, nor will the PHA approve an addition if the unit will be overcrowded. Such applicants will be encouraged to apply to the waiting list.
6) Residents who fail to notify the PHA of additions to the household, or who permit persons to join the household without undergoing screening, are in violation of the lease. Such persons are considered to be unauthorized occupants by the PHA, and the entire household will be subject to eviction [24 CFR 966.4(f)(2 and 3)].
7) Family members aged 18 and over who move from the dwelling unit to establish new households shall be removed from the lease. The tenant must notify the PHA of the

move-out within 14 calendar days of its occurrence. If these family members wish to return, they are subject to the limitations prescribed above.

8) The resident may not allow visitors to stay overnight more than 45 days in a 12- month period.
    a. The resident may not allow visitors to stay overnight more than 14 consecutive days in a 12-month period.
    b. The manager may authorize overnight visitors provided the visit does not exceed 14 consecutive days.
    c. Visitors who remain beyond the limits stated above are considered trespassers, and their presence constitutes a breach of the lease.
    d. If an individual other than a leaseholder is representing to an outside agency that they are residing in the lessee's unit, the person will be considered an unauthorized member of the household.
9) Roomers and lodgers are not permitted to occupy a dwelling unit, nor are they permitted to move in with any family occupying a dwelling unit.
10) Residents are not permitted to allow a former tenant of the PHA who has been evicted to occupy the unit for any period of time.
11) Residents must advise the PHA when they will be absent from the unit for more than 30 days and provide a means for the PHA to contact the resident in the event of an emergency. Failure to advise the PHA of extended absences is grounds for termination of the lease.

E. LEASING UNITS WITH ACCESSIBLE OR ADAPTABLE FEATURES

[24 CFR 8.27(a)(1)(2) and (b)]

Before offering a vacant accessible unit to a non-disabled applicant, the PHA will offer such units:

First, to a current occupant of another unit of the same development, or other public housing developments under the PHA's control, who has a disability that requires the special features of the vacant unit.

Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

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

F. UTILITY SERVICES

Tenants responsible for direct payment of utilities must abide by any and all regulations of the specific utility company, including regulations pertaining to advance payments of deposits.

Minimum temperature:

If the PHA controls the temperature, the minimum temperature in each unit must be at least 68 degrees Fahrenheit. If the resident controls the temperature, the heating equipment must have the capability of heating to at least 68 degrees Fahrenheit.

Minimum temperature capability:

PHAs are allowed flexibility maintaining the indoor temperature when the outdoor temperature approaches the design day temperature. The design day temperature refers to the lowest expected outdoor temperature a heating system was designed to accommodate. This flexibility applies when the either the outside temperature reaches or drops below the design day temperature, or when the outside temperature is within five degrees Fahrenheit of the design day temperature for more than two continuous days. At no point should indoor temperatures drop below 55 degrees.

Measurement:

Temperature measurements must be taken three feet above the floor and two feet from an exterior wall in a habitable room.

Failure to maintain utility services during tenancy is a lease violation and grounds for eviction.

Non-payment of excess utility charge payments to the PHA is a violation of the lease and is grounds for eviction.

G. SECURITY DEPOSITS

Security Deposit

New tenants must pay a security deposit to the PHA at the time of admission.

The amount of the security deposit required is $100 per bedroom and is specified in the lease.

The amount of the Pet Deposit is $200 for a dog or cat and fish tanks require insurance coverage.

The PHA may permit installment payments of security deposits when a new tenant demonstrates a financial hardship to the satisfaction of the PHA. However, no less than one-half of the required deposit must be paid before occupancy.

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

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

- Unpaid rent;
- Damages listed on the Move-Out Inspection Report that exceed normal wear and tear;

- Other charges under the lease.

The PHA will refund the Security Deposit less any amounts owed, within the required state law period after move out and tenant's notification of new address.

The PHA will provide the tenant, or the person designated by the former tenant in the event of the former tenant's incapacitation or death, with a written list of any charges against the security deposit and copies of the receipts, including reasonable charges for repairs completed by the PHA's employees. If the tenant disagrees with the amount charged to the security deposit, the PHA will provide a meeting to discuss the charges.

The resident must leave the dwelling unit in a clean and undamaged (beyond normal wear and tear) condition and must furnish a forwarding address to the PHA. All keys to the unit must be returned to the Property Management Agent upon vacating the unit.

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

If the tenant transfers to another unit, the PHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges.

Pet Deposit

See chapters on pet policy.

H. RENT PAYMENTS

The tenant rent is due and payable at the PHA-designated location on the 1st of every month. If the 1st of the month falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If the PHA does not receive payment by the agreed-upon date, a delinquent rent notice will be sent.

If the payment of rent and other charges due under the lease will be delayed beyond the first day of the month, the tenant must notify the management no later than three business days before the payment is due.

1. The notification must include an explanation of the circumstances that will delay the tenant's payment and indicate the date on which full payment will be made.

I. FEES AND NONPAYMENT PENALTIES

If the family fails to pay their rent by the fifth day of the month, and the PHA has not agreed to accept payment at a later date, a 30-day Notice to Vacate (during nationwide emergency orders) or a 14-day Notice to Vacate (upon expiration of nationwide emergency orders) will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

If the tenant fails to make payment by the 5th day of the month, a late fee will be charged.

The PHA will always consider the rent unpaid when a check is returned as NSF, or a check is written on a closed account.

If the PHA has not agreed to accept payment at a later date, a Notice to Vacate will be issued for failure to pay rent.

J. SCHEDULES OF SPECIAL CHARGES

Schedules of special charges for services, repairs, utilities and rules and regulations which are required to be incorporated into the lease by reference shall be publicly posted in a conspicuous manner in the project office, and they will be provided to applicants and tenants upon request. Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

K. MODIFICATIONS TO THE LEASE

Schedules of special charges and rules and regulations are subject to modification or revision. Residents and resident organizations will be provided at least 30 days written notice of the reason(s) for any proposed modifications or revisions, and they will be given an opportunity to present written comments. Comments will be taken into consideration before any proposed modifications or revisions become effective.

A copy of such notice shall be posted in the central office, and:

> Posted in at least two conspicuous places within each structure or building in which tenants affected by the modifications or revisions are located.

After the proposed changes have been incorporated into the lease and approved by the Board, each family will be notified of the effective date of the new lease.

Any modifications of the lease must be accomplished by a written addendum to the lease and signed by both parties.

L. CANCELLATION OF THE LEASE

Cancellation of the tenant's lease is to be in accordance with the provisions contained in the lease agreement and as stated in this policy.

M. INSPECTIONS OF PUBLIC HOUSING UNITS

Initial Inspections

The PHA and the family will inspect the premises prior to occupancy of the unit, in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, will be kept in the tenant file.

Any adult member may sign the inspection form for the head of household.

Vacate Inspections

The PHA Inspection Department or the housing management staff and will perform a move-out inspection when the family vacates the unit, and will encourage the family to participate in the move-out inspection.

The purpose of this inspection is to determine necessary maintenance and whether there are damages that exceed normal wear and tear. The PHA will determine if there are tenant-caused damages to the unit. Tenant-caused damages may affect part or all of the return of the family's security deposit.

The move-out inspection also assists the PHA in determining the time and extent of the preparation and repairs necessary to make the unit ready for the next tenant.

The resident is encouraged to participate in the move-out inspection.

Annual Inspections

The PHA will inspect all units annually using HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE). These standards address the inspection of the site area, building systems and components, and dwelling units.

The unit will be considered noncompliant with NSPIRE if there are any *life-threatening* Health and Safety deficiencies.

If a unit does not comply with NSPIRE inspection due to housekeeping or tenant-caused damages, the resident will be given five days to correct noted items, after which a follow- up inspection will be conducted.

Residents will be issued a copy of the inspection report with required corrections.

If necessary to bring the unit into NSPIRE compliance, needed repairs will be completed by the PHA.

All inspections will include a check of all smoke alarms to ensure proper working order.

Inspection report will indicate whether required corrections are to be charged to the resident or covered by the PHA.

Damages beyond "normal wear and tear" will be billed to the tenant.

Residents who repeatedly "fail" the inspection or cause excessive damage to the unit may be in violation of their lease.

Residents who are in violation of their lease due to repeated failed inspections will be scheduled for a lease violation conference.

Quality Control Inspections

The housing management staff will conduct periodic quality control inspections to determine the condition of the unit and to identify problems or issues in which the PHA can be of service to the family.

The purpose of these quality control inspections is to assure that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

The property manager will conduct periodic inspections to determine the condition of the unit and to identify problems or issues in which the PHA can be of service to the family.

Special Inspections

Housing management staff may conduct or request the inspection supervisor to conduct a special inspection for housekeeping, unit condition, or suspected lease violation.

HUD representatives or local government officials may review PHA operations periodically and as a part of their monitoring may inspect a sampling of the PHA's inventory.

Other Inspections

Playground inspections are conducted quarterly to determine playground safety.

Building exterior and grounds inspections are conducted at all Public Housing properties to determine hazardous conditions as well as to assist in budget preparation.

HUD REAC random inspections will be conducted on a periodic basis.

Emergency Inspections

Housing management staff, including PHA inspectors, may initiate an emergency inspection report to generate a work order if they believe that an emergency exists in the unit or on a Public Housing site. In addition, the inspector may conduct an emergency inspection without a work order and generate a work order after the inspection has been conducted (see Entry of Premises Notice in this chapter.) Repairs are to be completed within 24 hours from the time the work order is issued.

Emergency Repairs to be Completed in Less than 24 Hours

The following items are to be considered emergency in nature and require immediate (less than 24 hour) response:

- Lock-out (with proper identification of resident) Broken lock that affects unit security
- Broken window glass that affects unit security, is a cutting hazard, or occurs during inclement weather (to be secured or abated)
- Escaping gas
- Plumbing leaks that can cause flooding or damage to the unit
- Natural gas leaks or smell of fumes Backed-up sewage
- Electrical hazard
- Units with elderly residents in which the PHA-owned air conditioner or heater (seasonal) or refrigerator is inoperable

- Inoperable smoke and/or carbon monoxide detectors will be treated as a 24-hour emergency and will be made operable by the PHA if the smoke detector is in need of repair.
- In in situations where the unit or building has a fuel burning appliance or an attached garage, missing or inoperable carbon monoxide detectors

Residents who disengage smoke detectors and/or carbon monoxide alarms for convenience purposes will be cited. (See "Housekeeping Citations" in this chapter.)

Entry of Premises Notices

The PHA will give prior written notice for non-emergency inspections. Non-emergency entries to the unit will be made during reasonable hours of the day.

The PHA will provide the family with 48-hour notice prior to entering the unit for non- emergency reasons other than the annual inspection.

An adult family member must be present in the unit during the inspection.

Where the PHA is conducting regular annual examinations of its housing units, the family will receive reasonable advance notice of the inspection to allow the family to prepare and be able to pass the inspection.

Reasons the PHA will enter the unit are:

- Inspections and maintenance
- To make improvements and repairs
- To show the premises for leasing
- In cases of emergency

The family must call the PHA at least 24 hours prior to the scheduled date of inspection to reschedule the inspection, if necessary.

The PHA will reschedule the inspection no more than once unless the resident has a verifiable medical reason that has hindered the inspection. The PHA may request verification.

Non-Inspection Emergency Entry

The PHA staff will allow access to the unit to proper authorities when issues of health or safety of the tenant are concerned.

Family Responsibility to Allow Inspection

The PHA must be allowed to inspect the unit at reasonable times with reasonable notice. A not less than 24-hour advance written notice will be considered reasonable advance notice in all cases.

The resident is notified of the inspection appointment in writing. The family must call the PHA or property management at least 24 hours before the inspection date to reschedule the inspection, if necessary.

If the resident refuses to allow the inspection or refuses to allow access to make repairs, the resident will be in violation of the lease.

Housekeeping Citations

Residents who "fail" an inspection due to housekeeping will be issued a Housekeeping Citation, and a re-inspection will be conducted within 14 working days by housing management staff.

A family that fails to comply with the re-inspection is considered in violation of the lease. More than three citations will be considered a violation of the lease.

Tenant Damages

Repeated failed inspections or damages to the unit beyond normal wear and tear may constitute serious or repeated lease violations.

"Beyond normal wear and tear" is defined as items that could be charged against the tenant's security deposit under state law or court practice.

N. NO SMOKING POLICY

According to the Centers for Disease and Prevention Control (CDC), cigarette smoking is the number one cause of preventable disease in the United States. The elderly and young populations, as well as people with chronic illnesses, are especially vulnerable to the adverse effects of smoking. The CDC estimates that 41,000 persons die annually from the effects of secondhand smoke. Because secondhand smoke can migrate between units in multifamily housing, causing respiratory illness, heart disease, cancer, and other adverse health effects in neighboring families, U.S. Department of Housing and Urban Development strongly encourages Public Housing Authorities (PHAs) to adopt no smoking policies (PIH-2009-21 HA). The PHA has a no-smoking policy at all its public housing sites.

EXHIBIT 9-1: MODEL SMOKE-FREE POLICY

In accordance with HUD regulations, the Housing Authority of COUNTY OF SAN DIEGO has adopted these smoke-free policies. The policies are effective as of JULY 30, 2018.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures. Smoking is also prohibited in outdoor areas within 25 feet from public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members and guests comply with this rule.

The term "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

PHA POLICIES

Designated Smoking Areas (DSA)

The PHA has not designated any smoking areas on the PHA's property. Residents may not discard smoking products on the property.

Electronic Nicotine Delivery Systems (ENDS)

Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Use of ENDS is not permitted in public housing units, common areas, or in outdoor areas within 25 feet from housing and administrative buildings.

Effective Date

The PHA's effective date(s) of this smoke-free policy is/are as follows:

The smoke-free policy will be effective for all residents, household members, employees, guests, and service persons on JULY 30, 2018.

Enforcement

The PHA must enforce smoke-free policies when a resident violates this policy. When enforcing the lease, the PHA will provide due process and allow residents to exercise their right to an informal settlement and formal hearing. The PHA will not evict a resident for a single incident of smoking in violation of this policy. As such, the PHA will implement a graduated enforcement framework that includes escalating warnings. Prior to pursuing eviction for violation of smoke-free policies, the PHA will take specific, progressive monitoring and enforcement actions, while at the same time educating tenants and providing smoking cessation information. The lease will identify the actions that constitute a policy violation, quantify the number of documented, verified violations that warrant enforcement action, state any disciplinary actions that will be taken for persistent non-responsiveness or repeated noncompliance, and state how many instances on noncompliance will constitute a violation. Tenancy termination and eviction will be pursued only as a last resort. The PHA may terminate tenancy at any time for violations of the lease and failure to otherwise fulfill household obligations if resident behavior disturbs other residents' peaceful enjoyment and is not conducive to maintaining the property in a decent, safe, and sanitary condition.

Reasonable Accommodation

While addiction to nicotine or smoking is not a disability, the PHA will provide reasonable accommodation to persons with disabilities who smoke that are in compliance with the requirements of this smoke-free policy.

Chapter 10

PET POLICY – ELDERLY/DISABLED PROJECTS

[24 CFR Part 5, Subpart C]

INTRODUCTION

PHAs have discretion to decide whether or not to develop policies pertaining to the keeping of pets in public housing units. This Chapter explains the PHA's policies on the keeping of pets and any criteria or standards pertaining to the policy for elderly/disabled projects. The rules adopted are reasonably related to the legitimate interest of this PHA to provide a decent, safe, and sanitary living environment for all tenants; to protecting and preserving the physical condition of the property; and the financial interest of the PHA.

The purpose of this policy is to establish the PHA's policy and procedures for ownership of pets in elderly and disabled units and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets.

The PHA chooses not to publish rules governing the keeping of common household pets. Residents will comply with the dwelling lease, which requires that no animals or pets of any kind be permitted on the premises without prior written approval of the PHA. This does not apply to animals that are used to assist, support, or provide service to persons with disabilities.

Nothing in this policy or the dwelling lease limits or impairs the right of persons with disabilities to own animals that are used to assist them.

Animals that Assist Persons with Disabilities [24 CFR 960.705]

Pet rules will not be applied to animals that assist, support, or provide service to persons with disabilities. This exclusion applies to such animals that reside in public housing and such animals that visit the development. The PHA has the authority to verify the person's disability and the relationship between the disability and the need for the assistance animal. Additional information on assistance animals is found in Chapter 1.

A. MANAGEMENT APPROVAL OF PETS

All pets must be approved in advance by the PHA management.

The pet owner must submit and enter into a Pet Agreement with the PHA.

Registration of Pets

Pets must be registered with the PHA before they are brought onto the premises. Registration includes a certificate signed by a licensed veterinarian or State/local authority that the pet has received all inoculations required by State or local law, and that the pet has no communicable disease(s) and is pest-free.

Registration must be renewed and will be coordinated with the annual recertification date and proof of license and inoculation will be submitted at least 30 days prior to annual reexamination.

Dogs and cats must be spayed or neutered and documentation must be provided to verify this.

Execution of a Pet Agreement with the PHA stating that the tenant acknowledges complete responsibility for the care and cleaning of the pet will be required.

Registration must be renewed and will be coordinated with the annual recertification date.

Approval for the keeping of a pet shall not be extended pending the completion of these requirements.

Refusal to Register Pets

The PHA may not refuse to register a pet based on the determination that the pet owner is financially unable to care for the pet. If the PHA refuses to register a pet, a written notification will be sent to the pet owner stating the reason for denial and shall be served in accordance with HUD Notice requirements.

The PHA will refuse to register a pet if:

- The pet is not a *common household pet* as defined in this policy; Keeping the pet would violate any House Pet Rules;
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually;
- The PHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

The notice of refusal may be combined with a notice of a pet violation.

A resident who cares for another resident's pet must notify the PHA and agree to abide by all of the pet rules in writing.

B. STANDARDS FOR PETS

If an approved pet gives birth to a litter, the resident must remove all pets from the premises except one.

Pet rules will not be applied to animals that assist, support or provide service to persons with disabilities.

Persons with Disabilities

To be excluded from the pet policy, the resident/pet owner must state:

- That there is a person with disabilities in the household;
- That there must be a relationship between the requested accommodation and the person's disability.

Types of Pets Allowed

No types of pets other than the following may be kept by a resident.

Tenants are permitted to have more than one *type* of pet, except for categories 1 and 2.

1. Dogs
    - Maximum number: one
    - Maximum adult weight: 25 pounds Must be housebroken
    - Must be spayed or neutered
    - Must have all required inoculations
    - Must be continually licensed as specified by State law and local ordinance
2. Cats
    - Must be spayed or neutered
    - Must have all required inoculations
    - Must be trained to use a litter box or other waste receptacle
    - Must be continually licensed as specified by State law or local ordinance
3. Birds
    - Maximum number: two
    - Must be enclosed in a cage at all times
4. Fish
    - Maximum aquarium size: 20 gallons
    - Must have insurance to cover water damage Must be maintained on an approved stand
    - Rodents (Rabbit, guinea pig, hamster, or gerbil ONLY) Maximum number: one
    - Must be enclosed in an acceptable cage at all times
    - Must be kept current in inoculations as specified by State law or local ordinance

5. Turtles
    - Maximum number: one
    - Must be enclosed in an acceptable cage or container at all times

C. PETS TEMPORARILY ON THE PREMISES

Pets that are not owned by a tenant will not be allowed. Residents are prohibited from feeding or harboring stray animals.

This rule excludes visiting pet programs sponsored by a humane society or other non-profit organization and approved by the PHA.

State or local laws governing pets temporarily in dwelling accommodations shall prevail.

D. ADDITIONAL FEES AND DEPOSITS FOR PETS

The PHA will charge a refundable Pet Deposit of $200 for each dog or cat and require insurance for fish tanks. This Pet Deposit is intended to cover additional costs not otherwise covered.

Residents with pets prior to the change in the amount of the Pet Deposit will not be required to increase their Pet Deposits.

The PHA will refund the Pet Deposit to the tenant, less any damage caused by the pet to the dwelling unit, upon removal of the pet or the owner from the unit.

The PHA will return the Pet Deposit to the former tenant or to the person designated by the former tenant in the event of the former tenant's incapacitation or death.

The PHA will provide the tenant or designee identified above with a written list of any charges against the pet deposit. If the tenant disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charges.

All reasonable expenses incurred by the PHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit;
- Fumigation of the dwelling unit;
- Common areas of the project.

Pet Deposits are not a part of rent payable by the resident.

E. ALTERATIONS TO UNIT

Residents/pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited.

F. PET WASTE REMOVAL CHARGE

Pet deposit and pet waste removal charges are not part of rent payable by the resident.

All reasonable expenses incurred by the PHA as the result of damages directly attributable to the presence of the pet will be the responsibility of the resident, including:

- The cost of repairs and replacements to the dwelling unit;
- Fumigation of the dwelling unit.

If the tenant is in occupancy when such costs occur, the tenant shall be billed for such costs as a current charge.

If such expenses occur as the result of a move-out inspection, they will be deducted from the pet deposit. The resident will be billed for any amount that exceeds the pet deposit.

The pet deposit will be refunded when the resident moves out or no longer has a pet on the premises, whichever occurs first.

The expense of flea de-infestation shall be the responsibility of the resident.

G. PET AREA RESTRICTIONS

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

H. NOISE

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

I. CLEANLINESS REQUIREMENTS

Litter Box Requirements

All animal waste or the litter from litter boxes shall be picked up immediately by the pet owner, disposed of in sealed plastic trash bags, and placed in a trash bin.

Litter shall not be disposed of by being flushed through a toilet. Litter boxes shall be stored inside the resident's dwelling unit.

Removal of Waste from Other Locations

The resident/pet owner shall be responsible for the removal of waste from the exercise area, immediately, by placing it in a sealed plastic bag and disposing of it in an outside trash bin.

Any unit occupied by a dog, cat, or rodent will be fumigated at the time the unit is vacated and the cost will be deducted from the pet deposit.

The resident/pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

J. PET CARE

All residents/pet owners shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Residents/pet owners must recognize that other residents may have chemical sensitivities or allergies related to pets, or may be easily frightened or disoriented by animals. Pet owners must agree to exercise courtesy with respect to other residents.

K. RESPONSIBLE PARTIES

The resident/pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

L. INSPECTIONS

The PHA may, after reasonable notice to the tenant during reasonable hours, enter and inspect the premises, in addition to other inspections allowed.

The PHA may enter and inspect the unit only if a written complaint is received alleging that the conduct or condition of the pet in the unit constitutes a nuisance or threat to the health or safety of the other occupants or other persons in the community under applicable State or local law.

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

M. PET RULE VIOLATION NOTICE

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the Pet Rule Policy, written notice will be served.

The Notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

1. That the resident/pet owner has five days from the effective date of the service of the notice to correct the violation or make written request for a meeting to discuss the violation;
2. That the resident pet owner is entitled to be accompanied by another person of his or her choice at the meeting; and
3. That the resident/pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to terminate the pet owner's tenancy.

N. NOTICE FOR PET REMOVAL

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

The Notice shall contain:

1. A brief statement of the factual basis for the PHA's determination of the Pet Rule that has been violated;
2. The requirement that the resident /pet owner must remove the pet within five days of the notice; and
3. A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

O. TERMINATION OF TENANCY

The PHA may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified; and

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

P. PET REMOVAL

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the resident/pet owner. In addition, pets that are poorly cared for or have been left unattended for over 72 hours will be removed.

If the responsible party is unwilling or unable to care for the pet, or if the PHA after reasonable efforts cannot contact the responsible party, the PHA may contact the appropriate State or local agency and request the removal of the pet.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

Q. EMERGENCIES

The PHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are referred to the appropriate State or local entity authorized to remove such animals.

If it is necessary for the PHA to place the pet in a shelter facility, the cost will be the responsibility of the tenant/pet owner.

Chapter 11

PET POLICY – GENERAL OCCUPANCY (FAMILY) PROJECTS

[24 CFR Part 960, Subpart G]

INTRODUCTION

This Chapter explains the PHA's policies on the keeping of pets in general occupancy projects and any criteria or standards pertaining to the policy. The rules adopted are reasonably related to the legitimate interest of this PHA to provide a decent, safe and sanitary living environment for all tenants, to protecting and preserving the physical condition of the property, and the financial interest of the PHA.

The purpose of this policy is to establish the PHA's policy and procedures for ownership of pets in general occupancy (family) projects and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets.

This policy does not apply to animals that are used to assist, support or provide service to persons with disabilities, or to service animals that visit public housing developments.

Animals that Assist Persons with Disabilities [24 CFR 960.705]

Pet rules will not be applied to animals that assist, support, or provide service to persons with disabilities. This exclusion applies to such animals that reside in public housing and such animals that visit the development. The PHA has the authority to verify the person's disability and the relationship between the disability and the need for the assistance animal. Additional information on assistance animals is found in Chapter 1.

A. MANAGEMENT APPROVAL OF PETS

All pets must be approved in advance by the PHA management.

The pet owner must submit and enter into a Pet Agreement with the PHA.

Registration of Pets

Pets must be registered with the PHA before they are brought onto the premises. Registration includes a certificate signed by a licensed veterinarian or State/local authority that the pet has received all inoculations required by State or local law, and that the pet has no communicable disease(s) and is pest-free.

Registration must be renewed and will be coordinated with the annual recertification date and proof of license and inoculation will be submitted at least 30 days prior to annual reexamination.

Dogs and cats must be spayed or neutered, and documentation must be provided to verify this.

Execution of a Pet Agreement with the PHA stating that the tenant acknowledges complete responsibility for the care and cleaning of the pet will be required.

Registration must be renewed and will be coordinated with the annual recertification date.

Approval for the keeping of a pet shall not be extended pending the completion of these requirements.

Refusal to Register Pets

The PHA may not refuse to register a pet based on the determination that the pet owner is financially unable to care for the pet. If the PHA refuses to register a pet, a written notification will be sent to the pet owner stating the reason for denial and shall be served in accordance with HUD Notice requirements.

The PHA will refuse to register a pet if:

- The pet is not a *common household pet* as defined in this policy;
- Keeping the pet would violate any House Pet Rules;
- The pet owner fails to provide complete pet registration information, or fails to update the registration annually;

The PHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

The notice of refusal may be combined with a notice of a pet violation.

A resident who cares for another resident's pet must notify the PHA and agree to abide by all of the pet rules in writing.

B. STANDARDS FOR PETS

If an approved pet gives birth to a litter, the resident must remove all pets from the premises except one.

Pet rules will not be applied to animals that assist, support or provide service to persons with disabilities.

PHAs may not require pet owners to obtain or carry liability insurance. PHAs may not require that cats be declawed.

Persons with Disabilities

To be excluded from the pet policy, the resident/pet owner must state:

- That there is a person with disabilities in the household;
- That there must be a relationship between the requested accommodation and the person's disability.

Types of Pets Allowed

No types of pets other than the following may be kept by a resident.

Tenants are permitted to have more than one *type* of pet, except for categories 1 and 2.

1. Dogs
   - Maximum number: one
   - Maximum adult weight: 25 pounds Must be housebroken
   - Must be spayed or neutered
   - Must have all required inoculations
   - Must be continually licensed as specified by State law and local ordinance
2. Cats
   - Must be spayed or neutered
   - Must have all required inoculations
   - Must be trained to use a litter box or other waste receptacle
   - Must be continually licensed as specified by State law or local ordinance
3. Birds
   - Maximum number: two
   - Must be enclosed in a cage at all times
4. Fish
   - Maximum aquarium size: 20 gallons
   - Must have insurance to cover water damage
   - Must be maintained on an approved stand
5. Rodents (Rabbit, guinea pig, hamster, or gerbil ONLY)
   - Maximum number: one
   - Must be enclosed in an acceptable cage at all times
   - Must be kept current in inoculations as specified by State law or local ordinance
6. Turtles
   - Maximum number: one
   - Must be enclosed in an acceptable cage or container at all times

C. PETS TEMPORARILY ON THE PREMISES

Pets that are not owned by a tenant will not be allowed. Residents are prohibited from feeding or harboring stray animals.

This rule excludes visiting pet programs sponsored by a humane society or other non-profit organization and approved by the PHA.

State or local laws governing pets temporarily in dwelling accommodations shall prevail.

D. ADDITIONAL FEES AND DEPOSITS FOR PETS

The PHA will charge a refundable Pet Deposit of $200 for each dog or cat and require insurance for fish tanks. This Pet Deposit is intended to cover additional costs not otherwise covered.

Residents with pets prior to the change in the amount of the Pet Deposit will not be required to increase their Pet Deposits.

The PHA will refund the Pet Deposit to the tenant, less any damage caused by the pet to the dwelling unit, upon removal of the pet or the owner from the unit.

The PHA will return the Pet Deposit to the former tenant or to the person designated by the former tenant in the event of the former tenant's incapacitation or death.

The PHA will provide the tenant or designee identified above with a written list of any charges against the pet deposit. If the tenant disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charges.

All reasonable expenses incurred by the PHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit;
- Fumigation of the dwelling unit;
- Common areas of the project.

Pet Deposits are not a part of rent payable by the resident

E. ALTERATIONS TO UNIT

Residents/pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal. Installation of pet doors is prohibited.

F. PET WASTE REMOVAL CHARGE

Pet deposit and pet waste removal charges are not part of rent payable by the resident.

All reasonable expenses incurred by the PHA as the result of damages directly attributable to the presence of the pet will be the responsibility of the resident, including:

The cost of repairs and replacements to the dwelling unit; Fumigation of the dwelling unit.

If the tenant is in occupancy when such costs occur, the tenant shall be billed for such costs as a current charge.

If such expenses occur as the result of a move-out inspection, they will be deducted from the pet deposit. The resident will be billed for any amount that exceeds the pet deposit.

The pet deposit will be refunded when the resident moves out or no longer has a pet on the premises, whichever occurs first.

The expense of flea de-infestation shall be the responsibility of the resident.

G. PET AREA RESTRICTIONS

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried and under the control of the resident or other responsible individual at all times.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

H. NOISE

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

I. CLEANLINESS REQUIREMENTS

Litter Box Requirements.

All animal waste or the litter from litter boxes shall be picked up immediately by the pet owner, disposed of in sealed plastic trash bags, and placed in a trash bin.

Litter shall not be disposed of by being flushed through a toilet. Litter boxes shall be stored inside the resident's dwelling unit.

Removal of Waste from Other Locations.

The Resident/Pet Owner shall be responsible for the removal of waste immediately from the exercise area by placing it in a sealed plastic bag and disposing of it in an outside trash bin.

Any unit occupied by a dog, cat, or rodent will be fumigated at the time the unit is vacated and the cost deducted from the pet deposit.

The resident/pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

J. PET CARE

All residents/pet owners shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Residents/pet owners must recognize that other residents may have chemical sensitivities or allergies related to pets or may be easily frightened or disoriented by animals. Pet owners must agree to exercise courtesy with respect to other residents.

K. RESPONSIBLE PARTIES

The resident/pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

L. INSPECTIONS

The PHA may, after reasonable notice to the tenant during reasonable hours, enter and inspect the premises, in addition to other inspections allowed.

The PHA may enter and inspect the unit only if a written complaint is received alleging that the conduct or condition of the pet in the unit constitutes a nuisance or threat to the health or safety of the other occupants or other persons in the community under applicable State or local law.

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

M. PET RULE VIOLATION NOTICE

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the Pet Rule Policy, written notice will be served.

The Notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

1. That the resident/pet owner has five days from the effective date of the service of the notice to correct the violation or make written request for a meeting to discuss the violation;

2. That the resident pet owner is entitled to be accompanied by another person of his or her choice at the meeting; and
3. That the resident/pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to terminate the pet owner's tenancy.

N. NOTICE FOR PET REMOVAL

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

The Notice shall contain:

1. A brief statement of the factual basis for the PHA's determination of the Pet Rule that has been violated;
2. The requirement that the resident /pet owner must remove the pet within five days of the notice; and
3. A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

O. TERMINATION OF TENANCY

The PHA may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified; and

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

P. PET REMOVAL

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the resident/pet owner. In addition, pets that are poorly cared for or have been left unattended for over 72 hours will be removed.

If the responsible party is unwilling or unable to care for the pet, or if the PHA after reasonable efforts cannot contact the responsible party, the PHA may contact the appropriate State or local agency and request the removal of the pet.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

Q. EMERGENCIES

The PHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are referred to the appropriate State or local entity authorized to remove such animals.

If it is necessary for the PHA to place the pet in a shelter facility, the cost will be the responsibility of the tenant/pet owner.

Chapter 12

REEXAMINATIONS

[24 CFR 5.613, 24 CFR 5.615, 24 CFR Part 960 Subpart C]

INTRODUCTION

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. Families who choose to pay flat rent are required to complete a reexamination of income, deductions and allowances at least once every three years. To determine the amount of income-based rent, it is necessary for the PHA to perform a reexamination of the family's income. At the annual reexamination, families who choose to pay income-based rent must report their current household composition, income, deductions and allowances. Between regular annual reexaminations, HUD requires that families report all changes in income, assets, and household composition. This Chapter defines the PHA's policy for conducting annual reexaminations. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ELIGIBILITY FOR CONTINUED OCCUPANCY

Residents who meet the following criteria will be eligible for continued occupancy:

1. Qualify as a family, as defined in this policy
2. Are in full compliance with the obligations and responsibilities described in the dwelling lease
3. Whose family members, age 6 and older, each have submitted their Social Security numbers, or have certifications on file that they do not have a Social Security number
4. Whose family members have submitted required citizenship/eligible immigration status/noncontending documents
5. Family is in compliance with community service requirements for those which include nonexempt individuals as described in Chapter 16.
6. Attend all scheduled interview/conference appointments. The family may reschedule interview/conference appointments in advance once, but if the family fails to attend the rescheduled interview/conference appointment, the family's lease will be terminated. However, an exception may be made for documented family emergencies.

Limitation On Public Housing Tenancy For Over Income Families [PIH Notice 2023- 03, CFR 960.507]

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

higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds, as determined by regulations.

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

PHA Policy

PHA will terminate Public Housing assistance and tenancy for families whose income exceeds the limit for program eligibility.

At annual or interim reexamination, if a family's income exceeds the applicable over- income limit, the PHA will notify the family in writing, document the family file, and begin tracking the family's over-income status.

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

If two years after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the PHA will provide written notification of the 24-month over-income determination no later than 30-days after the income examination that led to the 24-month over-income determination. The PHA will continue to charge these families the family's choice of income based, flat rent, or prorated rent for mixed families during the period before termination.

The notice will state:

1) The family has exceeded the over-income limit for 24 consecutive months.
2) The family's tenancy is terminated due to PHA's over income policy.
3) The notice will inform the family of this determination and state the period of time before tenancy termination and date of tenancy termination.

Tenancy of the family will be terminated no more than 6 months after the 24-month over income notification is provided to the family. The PHA will charge the family a rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit. The PHA will notify the family in writing of their new rent amount. The new rent amount will be effective 30 days after the HACSD's written notice to the family.

The PHA will give appropriate notice of lease tenancy termination (notice to vacate) in accordance with State and local laws. If the family disputes the PHA's over-income determination within a reasonable time, the PHA will afford the family a hearing on the matter.

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.

The PHA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

Family Size	1	2	3	4	5	6	7	8
Over Income Limit	$ 115,800	132,360	148,920	165,360	178,680	191,880	205,080	218,280

B. ANNUAL REEXAMINATION

The terms *annual recertification* and *annual reexamination* are synonymous.

In order to be recertified, families are required to provide current and accurate information on income, assets, allowances and deductions, and family composition.

Families who choose flat rent are to be recertified every three years. For families who move in on the first of the month, the annual recertifications will be completed within 12 months of the anniversary of the move-in date. (Example: If family moves in August 1, the annual recertification will be conducted to be effective on August 1, the following year.)

For families who move in during the month, the annual recertifications will be completed no later than the first of the month in which the family moved in, the following year. (Example: If family moves in August 15, the effective date of the next annual recertification is August 1.)

When families move to another dwelling unit:

> An annual recertification will be conducted (unless a recertification has occurred 120 days or less prior to the move-in date) and the anniversary date will be changed.

Reexamination Notice to the Family

All families will be notified of their obligation to recertify by first class mail. The notification shall be sent at least 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA will also mail the notice to a third party, if requested, as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

The notification shall explain the family choice of income-based or flat rent, with an estimate of what the income-based rent would be and a statement of what the flat rent is.

> The family will indicate whether the family chooses income-based or flat rent by checking the appropriate box on the document, signing the document, and returning the document to the PHA.

The family may call the PHA indicating whether the family chooses income-based or flat rent.

If the family chooses flat rent, no reexamination appointment will be necessary.

Methodology

If the family chooses income-based rent, or if the family has paid the flat rent for three (3) years, the PHA will use the following methodology for conducting annual recertifications:

If the PHA is doing face-to-face interviews, the PHA will notify the family of the date and time of the interview appointment. However, the PHA may conduct its recertifications through the mail.

Persons with Disabilities

Persons with disabilities, who are unable to come to the PHA's office, will be granted an accommodation of conducting the interview at the person's home, upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information

The family is required to complete a *Personal Declaration Form* prior to all annual and interim recertification interviews.

Requirements to Attend

When the PHA determines it necessary to have a face-to-face interview, the following family members will be required to attend the recertification interview and sign the application for continued occupancy:

The head of household and/or spouse.

If the head of household and/or spouse is unable to attend the interview:

- The appointment will be rescheduled.

Failure to Respond to Notification to Recertify

The written notification will explain which family members are required to attend the recertification interview. The family may call to request another appointment date up to three days prior to the interview.

If the family does not appear for the recertification interview and has not rescheduled or made prior arrangements with the PHA, the PHA will not reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the PHA will:

- Terminate tenancy for the family.

The housing representative may give an exception to this policy, if the family is able to document an emergency situation that prevented it from canceling or attending the appointment.

Documents Required from the Family

In the notification letter to the family, the PHA will include instructions for the family to bring the following:

- Documentation of income for all family members. Documentation of liquid and non-liquid assets.
- Documentation to substantiate any deductions or allowances. Personal Declaration form completed by head of household.
- Documentation to verify compliance with community service by all non-exempt adults.

Verification of Information

All information, which affects the family's continued eligibility for the program, and the family's Total Tenant Payment (TTP) will be verified in accordance with the verification procedures and guidelines described in this Policy. Verifications used for recertification must be less than 120 days old. All verifications will be placed in the file, which has been established for the family.

When the information has been verified, it will be analyzed to determine:

- The continued eligibility of the resident as a *family,* or as the *remaining member* of a family;
- The unit size required by the family;
- The amount of rent the family should pay.

Changes in the Tenant Rent

If there is any change in rent, including change in family's choice in rent, the lease will be amended, or a new lease will be executed, or a Notice of Rent Adjustment will be issued [24 CFR 966.4(c)].

Tenant Rent Increases

If tenant rent increases, a reasonable advance notice will be mailed to the family prior to the anniversary date, unless the delay was due to the action or inaction of the family.

If reasonable advance notice is not possible through no fault of the tenant, the tenant rent increase will be effective on the first of the second month following the notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the 1st of the month following the reported and verified change.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the PHA.

If tenant rent decreases and the change occurred within a month prior to the recertification appointment, but the family did not report the change as an interim adjustment, the decrease will be effective on the recertification anniversary date.

C. STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 960.257]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

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

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

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

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

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

D. REPORTING INTERIM CHANGES

Families must report all changes in household composition to the PHA between annual reexaminations. This includes additions due to birth, adoption, return of minor or disabled children

to the household, and court-awarded custody. The family must obtain PHA approval prior to all other additions to the household.

When there is a change in head of household or a new adult family member is added, the PHA will complete an application for continued occupancy and reverify, using the same procedures the PHA staff would use for an annual reexamination, except for effective dates of changes. In such case, the Interim Reexamination Policy would be used.

Other than the aforementioned additions, the family is limited to no more than a total of two people added in a 12-month period. In addition, all adult additions must have current income and a steady income history for the previous 6 months. If employed, they must be currently employed and have worked at least 20 hours per week for the previous 6 months. No additions, except for the aforementioned categories, may be added if the unit will be overcrowded and the family will not be eligible to transfer to a larger unit.

Family Request for Interim Reexamination

HACSD will conduct an interim reexamination upon family request.

Increases in Income to Be Reported

Families paying flat rent are not required to report any increases in income or assets.

Families choosing income-based rent must report all increases in income/assets of all household members to the PHA in writing within 14 calendar days of the occurrence.

Increases in Income and Rent Adjustments

The PHA will process applicable rent adjustments whenever there are additions to the household. An interim rent adjustment will not be conducted upon income increase, unless there is a pattern of an income declining just before an annual reexamination and then increasing again right after the annual reexamination is completed.

Rent increases (except those due to misrepresentation or the action or inaction of the family) require a 20-day advance notice.

Decreases in Income and Rent Adjustments

Residents may report a decrease in income and other changes, such as an increase in allowances or deductions, that would reduce the amount of the total tenant payment.

The PHA will process rent adjustments whenever there is a decrease in income that will result in a rent reduction of $1 or more.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

The PHA will not reduce the public housing rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction," which is a reduction in welfare benefits due to:

- Fraud by a family member in connection with the welfare program; or
- Noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program

A "specified welfare benefit reduction" does not include a reduction of welfare benefits due to:

- The expiration of a lifetime limit on receiving benefits; or
- A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, such as:
    i. The family has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.
- Noncompliance with other welfare agency requirements.

Definition of "Covered Family"

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of "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 included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by the PHA, based on written information supplied to the PHA by the welfare agency, including:

- The amount of the benefit reduction.
- The term of the benefit reduction.
- The reason for the reduction.
- Subsequent changes in the term or amount of benefit reduction.

Imputed welfare income will be included at annual and interim reexaminations during the term of reduction of welfare benefits.

The amount of imputed welfare income will be offset by the amount of additional income a family receives that begins after the sanction was imposed. When additional income is at least equal to the imputed welfare income, the imputed income will be reduced to zero.

If the family was not an assisted resident of public housing when the welfare sanction began, imputed welfare income will not be included in annual income.

Verification Before Denying a Request to Reduce Rent

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance *before* denying the family's request for rent reduction.

The PHA will rely on the welfare agency's written notice to the PHA regarding welfare sanctions.

Cooperation Agreements

The PHA has a written cooperation agreement in place with the local welfare agency that assists the PHA in obtaining the necessary information regarding welfare sanctions.

The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self- sufficiency programs throughout the community that are available to public housing residents.

The PHA and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit public housing residents.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and the PHA denies the family's request to modify the amount, the PHA will provide the tenant with a notice of denial, which will include:

- An explanation for the PHA's determination of the amount of imputed welfare income.
- A statement that the tenant may request a grievance hearing.

If the tenant requests a grievance hearing, the tenant is not required to pay an escrow deposit pursuant to 966.55(e) for the portion of tenant rent attributable to the imputed welfare income.

F. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification.

Families with zero or minimal income must complete and return every 30 days a form indicating how they are meeting their needs, along with the expenditure receipts for the 30- day period.

Any changes reported by residents other than those listed in this section will be noted in the file by the staff person but will not be processed between regularly scheduled annual recertifications.

PHA Errors

If the PHA makes a calculation error at admission to the program or at an annual or interim reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively. If the PHA has made a calculation error in favor of the PHA, the family will receive a rent adjustment back to the family's previous annual reexamination, if appropriate.

G. TIMELY REPORTING OF CHANGES IN INCOME AND ASSETS

Standard for Timely Reporting of Changes

The PHA requires that families report interim changes to the PHA within 14 working days of when the change occurs. Any information, document or signature needed from the family that is needed to verify the change must be provided within three working days of the change.

An exception will be made for TANF recipients who obtain employment. In such cases, families will have to submit a report within 14 days of receipt of the Notice of Action from TANF documentation that shows the full adjustment for employment income.

If the change is not reported within the required time period, or if the family fails to provide signatures, certifications or documentation (in the time period requested by the PHA), it will be considered untimely reporting.

Procedures When the Change is Reported in a Timely Manner

The PHA will notify the family of any changes, with the exception of tenant action, inaction, or misrepresentation, in Tenant Rent to be effective according to the following guidelines:

1. Increases in the Tenant Rent are effective on the first of the month following at least 30-days' notice.
2. Decreases in the Tenant Rent are effective the first of the month following the month in which the change is reported.

Procedures When the Change Is Not Reported by the Tenant in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

1. Increase in Tenant Rent will be effective retroactive to the date it would have been effective, had it been reported on a timely basis. The family will be liable for any underpaid rent and may be required to sign a Repayment Agreement.
2. Decrease in Tenant Rent will be effective on the first of the month following completion of processing by the PHA and not retroactively.

Procedures when the Change is not Processed by the PHA in a Timely Manner

"Processed in a timely manner," means that the change goes into effect on the date it should, when the family reports the change in a timely manner. If the change cannot be made effective on that date, the PHA does not process the change in a timely manner.

Therefore, an increase will be effective after the required reasonable advance notice prior to the first of the month after completion of processing by the PHA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

H. REPORTING OF CHANGES IN FAMILY COMPOSITION

The members of the family residing in the unit must be approved by the PHA. The family must inform the PHA and request approval of additional family members, other than additions due to birth, adoption, return of minor or dependent children to the household, or court-awarded custody, before the new member occupies the unit.

The PHA will not approve the addition of family members, other than by birth, adoption, return of minor or dependent children, or court-awarded custody, where the occupancy standards would require a larger size unit. The PHA will not approve more than a total of two people added in a 12-month period, unless the addition is due to the aforementioned categories, or a live-in aide. The PHA will not approve the addition of an adult to the household unless the adult has income and steady income for the last 6 months. If working, the adult must be currently working and have worked at least 20 hours per week for the past 6 months. The PHA may grant an exception to this standard for close blood relatives of the head of household or spouse if there is a documented hardship, but not if the addition will overcrowd the unit.

All changes in family composition must be reported within 14 working days of the occurrence in writing or via email.

If an adult family member is declared permanently absent by the head of household, the notice must contain a certification by the head of household or spouse that the member (who may be the head of household) removed is permanently absent.

Increase in Family Size

The PHA will consider a unit transfer (if needed under the Occupancy Guidelines) for additions to the family in the following cases:

- Return of minor or disabled child to the household.
- Addition of a PHA-approved live-in attendant.
- Addition due to birth, adoption or court-awarded custody.

Families who need a larger sized unit because of the above additions will have a lower priority on the Transfer List than other families who are required to change unit size and a lower priority than eligible families on the waiting list.

If a change due to birth, adoption, court-awarded custody, return of minor or disabled child to the household or a live-in attendant requires a larger-sized unit due to overcrowding, the change in unit size shall be made effective upon availability of an appropriately sized unit.

Definition of "Temporarily/Permanently Absent"

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

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 hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) are 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.

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit but has not moved out of the unit. In cases where the family has moved out of the unit, the PHA will terminate tenancy in accordance with the appropriate lease termination procedures contained in this Policy.

Families are required to notify the PHA before they move out of a unit, in accordance with the lease, and to give the PHA information about any family absence from the unit.

Families must notify the PHA if they are going to be absent from the unit for more than 15 consecutive days. A person with a disability may request an extension of time as an accommodation.

"Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the PHA may:

- Conduct a home visit.
- Write letters to the family at the unit.
- Post letters on exterior door.
- Telephone the family at the unit.
- Interview neighbors.
- Verify if utilities are in service.
- Check with Post Office for a forwarding address.
- Contact emergency contact.

If the entire family is absent from the unit, without PHA permission, for more than 30 consecutive days, the unit will be considered to be vacant and the PHA will terminate tenancy. However, extensions up to 180 consecutive days may be granted when the illness of a family member requires the family to be absent more than 30 consecutive days.

As a reasonable accommodation for a person with a disability, the PHA may approve an extension. (See Absence Due to Medical Reasons for other reasons to approve an extension.) During the period of absence, the rent and other charges must remain current.

Absence of Any Member

Any member of the household will be considered permanently absent if s/he is away from the unit for six consecutive months in a 12-month period, except as otherwise provided in this Chapter. An employed head, spouse or co-head absent from the unit for more than 180 consecutive days due to employment will continue to be considered a family member.

Absence Due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the PHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remain current.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the PHA's "Absence of Entire Family" policy.

Absence Due to Incarceration

If the sole member is incarcerated for more than 30 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 180 consecutive days. The rent and other charges must remain current during this period. A verification of the reason for incarceration is required and if incarceration is a result of prohibited activities, immediate action will be taken to terminate the lease.

Foster Care and Absences of Children

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child/children will 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. If the child have been removed permanently, the family will be required to move to a smaller sized unit. If all children are removed from the home permanently, the unit size will be reduced in accordance with the PHA's occupancy guidelines.

Absence of Adult

If an appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period when both parents are absent, the PHA will treat that adult as a visitor for the first 14 calendar days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Tenant Suitability criteria, the lease will be transferred to the caretaker.

If the court has not awarded custody or legal guardianship, but the action is in process, the PHA will secure verification from social services staff or the attorney as to the status.

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made.

The PHA will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Tenant Suitability criteria and has been in the unit for more than six months and it is reasonable to expect that custody will be granted.

When the PHA approves a person to reside in the unit as caretaker for the child(ren), the income of the caretaker should be counted, pending a final disposition. The PHA will work with the appropriate service agencies to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 180 days, the person will be considered permanently absent.

If an adult child goes into the military and leaves the household, they will be considered permanently absent.

Full time students who attend school away from the home will be treated in the following manner:

1. A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may in certain circumstances, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of unit size.
2. Students going to a public/private elementary or high school and/or living with family or friends (refer to shared custody) or students who have established separate households as indicated by one-year lease agreements must be considered permanently absent.

Visitors

(See Chapter on Leasing)

Any adult not included on the HUD 50058 who has been in the unit more than 14 consecutive days, or a total of fifteen cumulative days in the month, will be considered to be living in the unit as unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is an unauthorized household member.

Statements from neighbors and/or PHA staff will be considered in making the determination.

The PHA will consider:

- Statements from neighbors and/or PHA staff.
- Vehicle license plate verification.
- Post Office records.
- Driver's license verification.
- Law enforcement reports.

- Credit reports.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the PHA will terminate the family's lease, since prior approval was not requested for the addition.

Minors and college students who were part of the family, but who now live away from home during the school year and are not considered members of the household, may visit for up to 120 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 50% of the year, the minor will be considered to be an eligible visitor and not a family member. If both parents reside in Public Housing, only one parent would be able to claim the child for deductions and for determination for the occupancy standards.

I. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF UNIT

To be considered the remaining member of the tenant family, the person must have been previously approved by the PHA to be living in the unit.

A live-in attendant or foster child will not be considered a remaining member of the Family. In order for a minor child to continue to receive assistance as a remaining family member:

- The court has to have awarded emancipated minor status to the minor, or he/she is legally married; or The PHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a transfer to an appropriate unit size per the Occupancy Standards.

J. CHANGES IN UNIT SIZE

The PHA shall grant exceptions from the occupancy standards, if the family requests and the PHA determines the exceptions are justified, according to this policy.

The PHA will not assign a larger bedroom size due to additions of family members other than by birth, adoption, return of minor or disabled children to the household, or court- awarded custody.

The PHA will consider the size of the unit and the size of the bedrooms, as well as the number of bedrooms, when an exception is requested.

When an approvable change in the circumstances in a tenant family requires another unit size, the family's move depends upon the availability of a suitable size and type of unit. If the unit is not available at the time it is requested, the family will be placed on the Transfer List.

(Reference chapter on Occupancy Standards)

K. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES

Under the Noncitizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants on June 19, 1995, shall continue receiving full assistance, if they meet the following criteria:

- The head of household, co-head or spouse is a U.S. citizen, or has eligible immigrant status; AND
- The family does not include any ineligible immigrants other than the head or spouse, or parents or children of the head, co-head, or spouse.

Mixed families who qualify for continued assistance after 11/29/96, may receive prorated assistance only.

If they do not qualify for continued assistance, the member(s) that cause the family to be ineligible for continued assistance may move, or the family may choose prorated assistance (See Chapter titled "Factors Related to Total Tenant Payment Determination"). The PHA may no longer offer temporary deferral of termination (see Chapter on "Lease Terminations").

Chapter 13
LEASE TERMINATIONS
[24 CFR 966.4]

INTRODUCTION

The PHA may terminate tenancy for a family because of the family's action or failure to act in accordance with HUD regulations [24 CFR 966.4 (l)(2)], and the terms of the lease. This Chapter describes the PHA's policies for notification of lease termination and provisions of the lease.

A. TERMINATION BY TENANT

The tenant may terminate the lease by providing the PHA with a written 30-day (plus one day) advance notice as defined in the lease agreement.

B. TERMINATION BY PHA

Termination of tenancy will be in accordance with the PHA's lease.

The public housing lease is automatically renewable, EXCEPT the public housing lease shall have a 12-month term for community service and will not be renewed in the case of noncompliance with the community service requirements or if the family is determined to be over-income for 24 consecutive months. In the event of an over-income determination, the public housing lease will convert to month-to-month term to account for the period before termination as outlined in this Chapter.

A victim of domestic violence, dating violence, sexual assault, or stalking will not be subject to lease termination for criminal activities, unless the violent acts can be demonstrated by the PHA or manager to pose an actual and imminent threat to other tenants if that tenant is not evicted. The lease agreement may be bifurcated to allow a resident perpetrator to be evicted, while allowing the victim to remain in the unit.

The PHA will immediately terminate the lease following the death of a sole family member.

The lease may be terminated by the PHA at any time by giving written notice for serious or repeated violation of material terms of the lease, such as, but not limited to the following:

1. Nonpayment of rent or other charges due under the lease, or repeated late payment of rent;
2. Failure to provide timely and accurate statements of income, assets, expenses and family composition at Admission, Interim, Special or Annual Rent Recertifications;
3. Assignment or subleasing of the premises or providing accommodation for boarders or lodgers;

4. Use of the premises for purposes other than solely as a dwelling unit for the Tenant and Tenant's household as identified in this lease, or permitting its use for any other purposes;
5. Failure to abide by necessary and reasonable rules made by the PHA for the benefit and well-being of the housing project and the Tenants;
6. Failure to abide by applicable building and housing codes, materially affecting health or safety;
7. Failure to dispose of garbage waste and rubbish in a safe and sanitary manner;
8. Failure to use electrical, plumbing, sanitary, heating, ventilating, air conditioning and other equipment, including elevators, in a safe manner;
9. Acts of destruction, defacement or removal of any part of the premises, or failure to cause guests to refrain from such acts;
10. Failure to pay reasonable charges (other than for normal wear and tear) for the repair of damages to the premises, project buildings, facilities, equipment, or common areas; or;
11. Violation of the requirement for the Tenant, any member of the Tenant's household, or a guest not to engage in criminal activity, including drug-related criminal activity, *on or off* public housing premises (as defined in the lease), while the Tenant is a Tenant in public housing, and such criminal activity shall be cause for termination of tenancy. The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, a controlled substance (including Medical Marijuana) (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).
12. Any other person under the tenant's control shall not engage in such activity on public housing premises.
13. If contraband or a controlled substance is seized on the above premises, incidental to a lawful search or arrest, the PHA will be notified by the County Attorney's Office that it is to bring an unlawful detainer action against that Tenant. The PHA will then commence unlawful detainer procedures to terminate the Lease.
14. Alcohol abuse that the PHA determines interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
15. The PHA must terminate tenancy if any family member fails to sign and submit any consent form required for reexamination.
16. Non-compliance with Non-Citizen Rule requirements.
17. Failure of a family member to comply with community service provisions, as grounds only for non-renewal of the lease and termination of tenancy at the end of the 12-month lease term;
18. Discovery after admission of facts that made the tenant ineligible;

19. The PHA must terminate assistance if a resident family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.
    a. However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.
20. Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income;
21. Failure to accept the PHA's offer of a lease revision to an existing lease that is on a form adopted by the PHA in accordance with HUD regulations, with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect; and with the offer specifying a reasonable time limit within that period for acceptance by the family.

Over-Income Families [PIH Notice 2023-23; CFR 960.507]

The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over-income requirement states that after a family's income has exceeded 120 percent of area median income (AMI) (or a different limitation established by the secretary) for two consecutive years, the PHA must either terminate the family's tenancy within six months of the determination, or charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds, as determined by regulations.

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

PHA Policy

PHA will terminate Public Housing assistance and tenancy for families whose income exceeds the limit for program eligibility.

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, the PHA will notify the family in writing, document the family file, and begin tracking the family's over-income status.

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

If two years after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the PHA will provide written notification to the household of the 24-month over-income determination no later than 30 days after the income examination that led to the 24- month over-income determination. The PHA will continue to charge these families the family's choice of income-based, flat rent, or prorated rent for mixed families during the period before termination.

The notice will state:

1. The family has exceeded the over-income limit for 24 consecutive months.
2. The family's tenancy is terminated due to PHA's over-income policy.
3. The notice will inform the family of this determination and state the period of time before tenancy termination and date of tenancy termination.

Tenancy of the family will be terminated no more than 6 months after the 24-month over-income notification is provided to the family. The PHA will charge the family a rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit. The PHA will notify the family in writing of their new rent amount. The new rent amount will be effective 30-days after the PHA's written notice to the family.

The PHA will give appropriate notice of lease tenancy termination (notice to vacate) in accordance with State and local laws. If the family disputes the PHA's over-income determination within a reasonable time, the PHA must afford the family a hearing on the matter.

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.

The PHA will rely on the following over-income limits. These numbers will be updated within 60-days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

Family Size	1	2	3	4	5	6	7	8
Over Income Limit	$115,800	132,360	148,920	165,360	178,680	191,880	205,080	218,280

C. NOTIFICATION REQUIREMENTS

The PHA's written Notice of Lease Termination will state the reason for the proposed termination, the date that the termination will take place, and it will offer the resident all of the rights and protections afforded by the regulations and this policy. (See Chapter on Complaints, Grievances and Hearings.)

Notices of lease termination shall be in writing and delivered to tenant or adult member of the household or sent by first class mail properly addressed to the tenant, return receipt requested.

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

The return of the certified mail receipt, whether signed or unsigned, shall be considered to be proof that the resident received proper notification.

All notices of lease termination will include a copy of the form HUD-5382 and HUD-5380. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, or stalking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in Chapter 13.B.

Disclosure of Criminal Records to Family

Before the PHA terminates the lease based on a criminal conviction record, the tenant and subject of record will be provided information regarding his/her criminal record. Tenants may dispute the accuracy and relevance of that record at the grievance hearing or court hearing.

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

If the PHA terminates the lease, written notice will be given as follows:

1. During the period of time for which HUD determines that a national emergency requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 days from the date the tenant receives the notice in the case of failure to pay rent
2. When such emergency is not present, at least 14 calendar days prior to termination in the case of failure to pay rent;
3. A reasonable time, according to State law, considering the seriousness of the situation but not to exceed 30 days:
    - If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
    - If any member of the household has engaged in any drug-related criminal activity or violent criminal activity; or
    - If any member of the household has been convicted of a felony.
4. 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply The PHA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent (during nationwide emergency orders) or 14 calendar days from the date the tenant receives the notice for nonpayment of rent (upon expiration of nationwide emergency orders). For all other lease terminations, the PHA will give 30 days' written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The PHA shall notify the Post Office that mail should no longer be delivered to the person who was evicted for criminal activity, including drug-related criminal activity.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination

Any Notice to Vacate or Notice to Quit that is required by state or local law will run concurrently with the Notice of Lease Termination under this section.

Criminal Activity

The PHA will immediately terminate tenancy of persons convicted of manufacturing or producing methamphetamine on the premises of the assisted housing project in violation of any Federal or State law. "Premises" is defined as the building or complex in which the dwelling unit is located, including common areas and grounds.

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

The PHA will terminate assistance of participants in cases where the PHA determines there is reasonable cause to believe that the person is illegally using a controlled substance or engages in drug-related or other criminal activity. The same will apply if it is determined that the person abuses alcohol in a way that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents. This includes cases where the PHA determines that there is a pattern of illegal use of controlled substances or a pattern of alcohol abuse.

The PHA will consider the use of a controlled substance or alcohol to be a *pattern* if there is more than one incident during the previous 6 months.

"Engaged in or engaging in or recent history of" drug related criminal activity means any act within the past three years by applicants or participants, household members, or guests which involved drug-related criminal activity including, without limitation, drug-related criminal activity, possession and/or use of narcotic paraphernalia, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, or guests.

"Engaged in or engaging in or recent history of" criminal activity means any act within the past three years by applicants or participants, household members, or guests which involved criminal activity that would threaten the health, safety or right to peaceful enjoyment of the public housing premises by other residents or employees of the PHA, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, or guests.

While a record or records of arrest(s) will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying drug related criminal activity or other 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

Please see full Consideration of Circumstances policy outlined in Chapter 2.

D. RECORD KEEPING

A written record of every termination and/or eviction shall be maintained by the PHA at the development where the family was residing, and shall contain the following information:

- Name of resident, number and identification of unit occupied;
- Date of the Notice of Lease Termination and any other notices required by State or local law; these notices may be on the same form and will run concurrently;
- Specific reason(s) for the Notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the Notices described in detail
- Date and method of notifying the resident;
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.

Records for persons whose leases were terminated for any reason will be kept in compliance with PHA's record retention policies.

E. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS

If the PHA determines that a family member has knowingly permitted an ineligible individual to reside in the family's unit on a permanent basis, without the permission of the PHA, the family's lease will be terminated for allowing an unauthorized person to reside in the unit. This provision does not apply to a family if the eligibility of the ineligible individual was considered in calculating any proration of assistance provided for the family.

Chapter 14

COMPLAINTS, GRIEVANCES AND APPEALS

[24 CFR Part 966 Subpart B]

INTRODUCTION

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of the PHA. This Chapter describes the policies to be used when families disagree with a PHA decision. It is the policy of the PHA to ensure that all families have the benefit of all protections due to them under the law.

Grievances shall be handled in accordance with the PHA's approved Grievance Procedures. The written grievance procedure is incorporated into this document by reference and is the guideline to be used for grievances and appeals.

A. COMPLAINTS

The PHA will respond promptly to all complaints.

Each complaint regarding physical condition of the units may be reported by phone to the Property Manager.

Complaints from families. If a family disagrees with an action or inaction of the PHA, complaints will be referred to the Property Manager. Complaints regarding physical condition of the units may be reported by phone to the Property Management Supervisor.

Complaints from staff. If a staff person reports a family is violating or has violated a lease provision or is not complying with program rules, the complaints will be referred to the Chief.

Complaints from the general public. Complaints or referrals from persons in the community in regard to the PHA or a family will be referred to the Chief, designee or Fraud Hotline.

Anonymous complaints will be checked whenever possible.

B. APPEALS BY APPLICANTS

Applicants who are determined ineligible, who do not meet the PHA's admission standards, or where the PHA does not have an appropriate size and type of unit in its inventory will be given written notification promptly, including the reason for the determination.

Ineligible applicants will be promptly provided with a letter detailing their individual status, stating the reason for their ineligibility, and offering them an opportunity for an informal hearing.

Applicants must submit their request for an informal hearing in writing to the PHA within 14 working days from the date of the notification of their ineligibility. The PHA will consider

reasonable accommodations for applicants who are unable to submit their request for an informal hearing within 14 working days due to disability-related reasons.

If the applicant requests an informal hearing, the PHA will provide an informal hearing within 30 working days of receiving the request. The PHA will notify the applicant of the place, date, and time.

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

Informal hearings will be conducted by an impartial hearing officer. Reasonable accommodations for residents with disabilities relative to the hearing will be provided upon request and verification of disability and disability-related need. The person who is designated as the hearing officer cannot be the person who made the determination of ineligibility or a subordinate of that person.

The applicant may bring to the hearing any documentation or evidence s/he wishes and the evidence along with the data compiled by the PHA will be considered by the hearing officer.

Within 30 working days, the hearing officer will mail a written decision to the applicant and place a copy of the decision in the applicant's file.

The grievance procedures for Public Housing tenants do not apply to PHA determinations that affect applicants.

C. APPEALS BY TENANTS

Tenants must submit their request for an informal hearing in writing to the PHA within 14 working days from the date of the notification of their termination. The PHA will consider reasonable accommodations for applicants who are unable to submit their request for an informal hearing within 14 working days due to disability-related reasons.

If the tenant requests an informal hearing, the PHA will provide an informal hearing within 30 working days of receiving the request. The PHA will notify the tenant of the place, date, and time.

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

Grievances or appeals concerning the obligations of the tenant or the PHA under the provisions of the lease shall be processed and resolved in accordance with the Grievance Procedure of the PHA, which is in effect at the time such grievance or appeal arises.

Appeals by tenants assisted under a Relocation Plan will follow the Grievance Procedures outlined in the Relocation Plan where an informal conference will be conducted before proceeding with an Informal Hearing request. Relocation appeals are those pertaining to determination of eligibility, payment amounts, failure to provide comparable temporary housing or HACSD's property management practices. All other appeals will follow the Grievance Procedure outlined herein.

(See the PHA's Grievance Procedure contained in this chapter.)

D. SCHEDULING AN INFORMAL HEARING

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

The PHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

If the informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

1. Regarding the processes involved in a remote informal hearing;
2. That PHA will provide technical assistance prior to and during the informal hearing, if needed; and
3. That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform PHA and PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal hearing, as appropriate.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation.

Conducting Remote Informal Hearings [Notice PIH 2020-32]

The PHA will ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA will ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. HACSD will scan and email copies of these documents to the PHA representative and to the person conducting the informal hearing the same day.

Documents will be shared electronically whenever possible.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS"

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the PHA hearing is pending but assistance to an applicant may be delayed pending the PHA hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the PHA notifies the applicant or tenant within 10 days of their right to appeal to the INS within 30 days or to request an informal hearing with the PHA, either in lieu of, or subsequent to the INS appeal.

If the family appeals to the INS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.

The request for a PHA hearing must be made within 14 days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within 14 days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in the "Grievance Procedures" section of this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the PHA will:

- Deny the applicant family.
- Terminate the participant.

If there are eligible members in the family, the PHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

1. If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
2. Participants whose assistance is pro-rated (either based on their statement that some members are ineligible, or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above), the family is entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.

3. Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

F. GRIEVANCE PROCEDURES

See the Public Housing Lease Attachment B.

Definitions

1. **Grievance**. Any dispute which a tenant may have with respect to a Housing Authority action or failure to act in accordance with the individual tenant's lease or PHA regulations that adversely affect the individual tenant's rights, duties, welfare, or status.
2. **Complainant**. Any tenant whose grievance is presented to the PHA or at the site management office informally, or as part of the informal hearing process.
3. **Hearing Officer**. An impartial person selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person.
4. **Tenant**. A lessee or the remaining head of household of any tenant family residing in housing accommodations owned or leased by the PHA.
5. **Elements of Due Process**. An eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required.
   a. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
   b. Opportunity for the tenant to examine all relevant documents, records, and regulations of the PHA prior to the trial for the purpose of preparing a defense;
   c. Right of the tenant to be represented by counsel;
   d. Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;
   e. A decision on the merits of the case.

Applicability

This Grievance Procedure applies to all individual grievances, except any grievance concerning a termination of tenancy or eviction that involves:

1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or PHA employees; or
2. Any violent or drug-related criminal activity *on* or *off* such premises; or
3. Any criminal activity that resulted in felony conviction of a household member

Chapter 15

FAMILY DEBTS TO THE PHA

INTRODUCTION

This Chapter describes the PHA's policies for the recovery of monies, which have been underpaid by families. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informational needs of families, and to communicate the program rules in order to avoid family debts. Before a debt is assessed against a family, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for hearing by the family or other interested parties.

When families owe money to the PHA, the PHA will make every effort to collect it. The PHA will use a variety of collection tools to recover debts including, but not limited to:

- Requests for lump sum payments;
- Civil suits;
- Payment agreements;
- Collection agencies;
- Credit bureaus;
- Income tax set-off programs;

A. PAYMENT AGREEMENT FOR FAMILIES

A Payment Agreement as used in this Plan is a document entered into between the PHA and a person who owes a debt to the PHA. It is similar to a promissory note but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the PHA upon default of the agreement.

The maximum length of time the PHA will enter into a payment agreement with a family is one year. However, if the payment plan is not affordable to the family, the Chief may grant extensions of longer duration.

Late Payments

A payment will be considered to be in arrears if:

- The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

If the family's payment agreement is in arrears, the PHA will:

- Require the family to pay the balance in full.

If the family requests a transfer to another unit and has a payment agreement in place and the payment agreement is not in arrears:

- The family will be required to pay the balance in full prior to the unit transfer.

Payment Schedule for Monies Owed to the PHA

Initial Payment Due will be 10% of the total amount owed.

There are some circumstances in which the PHA will not enter into a payment agreement. They are:

- If the family already has a payment agreement in place.
- If the PHA determines that the family has committed program fraud or failed to provide true and complete information
- If the PHA determines that the debt, due to fraud or failure to report income, is so large that it would take more than one year to repay.

Guidelines for Payment Agreements

Payment agreements will be executed between the PHA and the head of household and spouse.

Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the Chief.

No transfer will be approved until the debt is paid in full unless the transfer is the result of the following causes, and the payment agreement is current:

- Family size exceeds the maximum occupancy guidelines.
- A natural disaster.

Additional Monies Owed

If the family has a payment agreement in place and incurs an additional debt to the PHA:

- The PHA will not enter into more than one payment agreement at a time with the same family.

B. DEBTS DUE TO FRAUD/NON-REPORTING OF INFORMATION.

HUD's definition of program fraud and abuse is a single act or pattern of actions that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead.

Non-reporting of information is the failure to fully and/or accurately report true and complete information regardless of whether this failure was deliberate.

Family Error/Late Reporting

Families who owe money to the PHA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Payment Section of this Chapter.

Program Fraud

Families who owe money to the PHA due to program fraud will be required to repay in accordance with the guidelines in Section A of this Chapter.

If a family owes an amount, which equals or exceeds $5,000 as a result of program fraud, the lease will be terminated and the case, where appropriate, may be referred to the Inspector General or for criminal prosecution.

Payment Procedures for Program Fraud

Families who commit program fraud or untimely reporting of increases in income will be subject to the following procedures:

- The maximum time period for a payment agreement will be 12 months.
- The PHA may take terminate the family's lease as a result of fraud.

C. WRITING OFF DEBTS

Debts may be written off by the Director of HCDS when determined uncollectable. In determining whether a debt is uncollectable several factors will be considered including the following:

- Whether the debtor's whereabouts are unknown and the debt is more than one year old.
- Whether the debtor is judgment proof. Whether the debtor is deceased.
- The debtor is confined to an institution indefinitely.
- The amount is less than $250 and the debtor cannot be located.

However, the PHA will maintain records of the debt until paid and the family is ineligible to receive assistance in any Federally funded housing program while the debt remains.

Chapter 16

COMMUNITY SERVICE

[24 CFR Part 960 Subpart F and 24 CFR 903.7(l)]

INTRODUCTION

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

A. REQUIREMENT

Each adult resident of the PHA shall:

1. Contribute eight hours per month of community service (not including political activities) within the community in which that adult resides; or
2. Participate in an economic self-sufficiency program (defined below) for eight hours per month; or
3. Perform eight hours per month of combined activities (community service and economic self-sufficiency program)

The required community service or self-sufficiency activity may be completed at 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.

B. EXEMPTIONS

The PHA shall provide an exemption from the community service requirement for any individual who:

- Is 62 years of age or older;
- Is a blind or disabled individual, as defined under section 216[i][l] or 1614 of the Social Security Act, and who is unable to comply with this section, or is a primary caretaker of such individual;
- Is engaged in a work activity as defined in section 407[d] of the Social Security Act;
- Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act, or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

- Is in a family receiving assistance under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.
- Is a member of a non-public housing over-income family.

The PHA will re-verify exemption status annually, except in the case of an individual who is 62 years of age or older.

The PHA will permit residents to change exemption status during the year if status changes.

C. DEFINITION OF ECONOMIC SELF-SUFFICIENCY PROGRAM

For purposes of satisfying the community service requirement, participating in an economic self-sufficiency program is defined, in addition to the exemption definitions described above, by HUD as: Any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families.

These economic self-sufficiency programs 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 substance abuse or mental health treatment).

- In addition to the HUD definition above, the PHA definition includes any of the following:
- Participating in the Family Self-Sufficiency Program and being current in the steps outlined in the Individual Training and Services Plan.
- Participating in the Family Self-Sufficiency Program and attending at least three FSS events annually.
- Other activities as approved by the PHA on a case-by-case basis.

The PHA will give residents the greatest choice possible in identifying community service opportunities.

The PHA will consider a broad range of self-sufficiency opportunities.

D. ANNUAL DETERMINATIONS

For each public housing resident subject to the requirement of community service, the PHA shall, at least 30 days before the expiration of each lease term, review and determine the compliance of the resident with the community service requirement.

Such determination shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

The PHA will verify compliance annually. If qualifying activities are administered by an organization other than the PHA, the PHA will obtain verification of family compliance from such third parties.

Family members will not be permitted to self-certify that they have complied with community service requirements.

E. NONCOMPLIANCE

If the PHA determines that a resident subject to the community service requirement has not complied with the requirement, the PHA shall notify the resident of such noncompliance, and that:

1. The determination of noncompliance is subject to the administrative grievance procedure under the PHA's Grievance Procedures; and
2. Unless the resident enters into an agreement to comply with the community service requirement, the resident's lease will not be renewed; and
3. The PHA may not renew or extend the resident's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the PHA enters into an agreement with the resident before the expiration of the lease term, providing for the resident to cure any noncompliance with the community service requirement by participating in an economic self- sufficiency program for, or contributing to, community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.
4. The head of household and the noncompliant adult must sign the agreement to cure.

Ineligibility for Occupancy for Noncompliance

The PHA shall not renew or extend any lease, or provide any new lease, for a dwelling unit for any household that includes an adult member who was subject to the community service requirement and failed to comply with the requirement.

F. PHA RESPONSIBILITY

The PHA will ensure that all community service programs are accessible for persons with disabilities.

The PHA will ensure that:

- The conditions under which the work is to be performed are not hazardous;
- The work is not labor that would be performed by the PHA's employees responsible for essential maintenance and property services; or
- The work is not otherwise unacceptable.

G. PHA COMMUNITY SERVICE REQUIREMENT

The PHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the PHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

When the PHA has a ROSS program, a ROSS Service Coordinator, or an FSS program, the PHA will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with PHA coordinators will satisfy community service activities and PHA coordinators may verify community service hours within individual monthly logs.

Chapter 17

PROGRAM REVIEW ADDENDUM

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD) conservatively estimates that 600 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental subsidy than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible or are receiving benefits that exceed their legal entitlement. The PHA is committed to assure that the proper level of benefits is paid to all tenants and that housing resources reach only income-eligible families so that program integrity can be maintained.

The PHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This chapter outlines the PHA's policies for the prevention, detection and investigation of program abuse and tenant fraud.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will the PHA undertake an inquiry or an audit of a tenant family arbitrarily. The PHA's expectation is that tenant families will comply with HUD requirements, provisions of the lease, and other program rules. The PHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the PHA has a responsibility to HUD, the community, and to eligible families in need of housing assistance to monitor tenants for compliance with their lease obligations and, when indicators of possible abuse come to the PHA' s attention, to investigate such claims.

The PHA will initiate an investigation of a tenant family only in the event of one or more of the following circumstances:

1. Referrals, Complaints, or Tips. The PHA will follow up on referrals received by mail, by telephone, or in person from other agencies, companies, or persons alleging that a tenant family is in noncompliance with or otherwise violating the lease or the program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the tenant file.

2. Internal File Review. A follow-up will be made if PHA staff discovers (as a function of a [re]certification, an interim redetermination, or a quality control review) information or facts that conflict with previous file data, the PHA's knowledge of the family, or statements made by the family.

3. Verification or Documentation. A follow-up will be made if the PHA receives independent verification or documentation that conflicts with representations in the tenant file (such as public record information or reports from credit bureaus or other agencies).

B. STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

The management and occupancy staff will utilize various methods and practices (listed below) to prevent program abuse, noncompliance, and willful violations of program rules by applicants and tenant families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by tenant families.

Things You Should Know (HUD-1140-OIG). This program integrity bulletin (created by HUD's inspector general) will be furnished and explained to all applicants to promote understanding of program rules and to clarify the PHA's expectations for cooperation and compliance.

Program Orientation Session. Mandatory orientation sessions will be conducted by the site manager for all prospective tenants either prior to or upon execution of the lease. At the conclusion of all program orientation sessions, the family representative will be required to sign a program-briefing certificate to confirm that all rules and pertinent regulations were explained to them.

Resident Counseling. The PHA may routinely provide tenant counseling as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.

Review and Explanation of Forms. Staff may explain all required forms and review the contents of all (re)certification documents prior to signature.

Use of Instructive Signs and Warnings. Instructive signs may be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

Tenant Certification. All family representatives will be required to sign a tenant certification form.

C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The PHA Staff will maintain a high level of alertness to indicators of possible abuse and fraud by assisted families.

Quality Control File Reviews. Prior to initial certification and at the completion of all subsequent recertifications, each tenant file will be reviewed. At a minimum, such reviews shall examine:

- Changes in reported Social Security numbers or dates of birth
- Authenticity of file documents
- Ratio between reported income and expenditures
- Consistency of signatures with previously signed file documents

Observation. The PHA management and occupancy staff (to include maintenance personnel) will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

Public Record Bulletins. These bulletins may be reviewed by management and staff.

State Wage Data Record Keepers. Inquiries to state wage and employment record- keeping agencies, as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

Credit Bureau Inquiries. Credit bureau inquiries may be made (with proper authorization by the tenant) in the following circumstances:

- At the time of final eligibility determination
- When an allegation is received by the PHA wherein unreported income sources are disclosed.
- When a tenant's expenditures exceed his/her reported income and no plausible explanation is given.

D. THE PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The PHA staff will encourage all tenant families to report suspected abuse to the Program Review Division. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the tenant file. All allegations, complaints, and tips will be carefully evaluated to determine whether they warrant follow- up. Program Review will not follow up on allegations that are vague or otherwise non- specific. They will only review allegations that contain one or more independently verifiable fact(s).

File Review. An internal file review will be conducted to determine if the subject of the allegation is a tenant of the PHA and, if so, whether the information reported has been previously disclosed by the family. The PHA will then determine whether it is the most appropriate authority to do a follow-up (as compared to police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review. If at the conclusion of the preliminary file review there are facts contained in the allegation that conflict with file data and that are independently verifiable, the Housing Specialist will initiate an investigation to determine if the allegation is true or false.

E. HOW THE PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If the PHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the Executive Director to monitor program compliance will conduct the investigation. The steps taken will depend upon the nature of the

allegation and may include the items listed below. In all cases, the PHA will secure the written authorization from the program participant for the release of information.

Credit Bureau Inquiries. In cases involving previously unreported income sources, a credit bureau inquiry may be made to determine whether the financial activity of a family conflicts with the family's reported income.

Verification of Credit. In cases where the financial activity conflicts with file data, a verification of credit form may be mailed to the creditor to determine the source of unreported income.

Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

Witnesses. Neighbors and/or other witnesses who are believed to have direct or indirect knowledge of facts pertaining to the PHA's review may be interviewed.

Other Agencies. Investigators, caseworkers, or representatives of other benefit agencies may be contacted.

Public Records. The PHA will review any relevant public records kept in a jurisdictional courthouse. Examples of public records that may be checked are real estate records, marriage and divorce records, uniform commercial code financing statements, voter registration rolls, judgments, court or police records, state wage records, utility records, and postal records.

Interviews with Head of Household or Family Members. The PHA will discuss the allegation (or details thereof) with the head of household or family members by scheduling appointments at the appropriate PHA office. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusations, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

F. PLACEMENT OF DOCUMENTS, EVIDENCE, AND STATEMENTS OBTAINED BY THE PHA

Documents and other evidence obtained by the PHA during the course of an investigation will be considered "work product" and will be kept either in the tenant file or in a separate "work file." In either case, the tenant file or work file will be kept in a secure area. Such cases under review will be discussed only among PHA staff who are involved in the process or have information that may assist in the investigation.

G. PHA-CAUSED ERRORS OR PROGRAM ABUSE

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

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.

1. Any of the following will be considered evidence of program abuse by PHA staff:
2. Failing to comply with any public housing program requirements for personal gain
3. Failing to comply with any public housing program requirements as a result of a conflict-of-interest relationship with any applicant or resident
4. Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the PHA
5. Disclosing confidential or proprietary information to outside parties
6. Gaining profit as a result of insider knowledge of PHA activities, policies, or practices
7. Misappropriating or misusing public housing funds
8. Destroying, concealing, removing, or inappropriately using any records related to the public housing program
9. Committing any other corrupt or criminal act in connection with any federal housing program
10. Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment
11. Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the PHA knew or should have known such harassment was occurring
12. Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the executive director or designee. It will then be determined whether the facts are conclusive and, if so, whether a violation has or has not occurred.

I. EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

- What type of violation has occurred (procedural noncompliance or fraud).
- Whether the violation was intentional or unintentional.
- What amount of money (if any) is owed by the tenant.
- Whether the family is eligible for continued occupancy.

J. ACTION PROCEDURES FOR VIOLATIONS THAT HAVE BEEN DOCUMENTED

Once a program violation has been documented, the PHA will propose the most appropriate remedy based upon the type and severity of the violation.

Procedural Noncompliance

This category applies when the tenant "fails to" observe a procedure or requirement of the PHA but does not misrepresent a material fact and there is no retroactive rent owed by the family. Examples of noncompliance violations are:

- Failure to appear at a prescheduled appointment.
- Failure to return verification in the time period specified by the PHA.

Warning Notice to the Family. In such cases a notice containing the following will be sent to the family:

- A description of the noncompliance and the procedure, policy, or obligation that was violated.
- The date by which the violation must be corrected, or the procedure complied with.
- The action that will be taken by the PHA if the procedure or obligation is not complied with by the date specified by the PHA.
- The consequences of repeated (similar) violations.

Procedural Noncompliance - Retroactive Rent

When the tenant owes money to the PHA for failure to report changes in income or assets, the PHA will issue a notice of underpaid rent. This notice will contain the following:

- A description of the violation and the date(s). Any amounts owed to the PHA.
- The number of days within which a response must be received.
- Acknowledgment of the tenant's right to disagree and to request an informal hearing, along with instructions for requesting such a hearing.

Tenant Fails to Comply with PHA's Notice. If the tenant fails to comply with the PHA's notice and a material provision of the lease has been violated, the PHA will initiate termination of tenancy.

Tenant Complies with PHA's Notice. When a tenant complies with the PHA's notice the staff person responsible will meet with him/her to explain and discuss the obligation or lease provision that was violated. The staff person will complete a tenant counseling report, give one copy to the family, and retain a copy in the tenant file.

Intentional Misrepresentations

When a tenant falsifies, misstates, omits, or otherwise misrepresents a material fact that results (or would result) in an underpayment of rent by the tenant, the PHA will evaluate whether or not:

1. The tenant had knowledge that his/her actions were wrong.
2. The tenant willfully violated the lease or the law.

Knowledge. This will be evaluated by determining whether the tenant was made aware of program requirements and prohibitions. The tenant's signature on various certifications, the briefing certificate, and the personal declaration are adequate to establish knowledge of wrongdoing.

Willful Intent. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the tenant of the misrepresentation.
- Repetition of the misrepresentation.
- Use of a false name or Social Security number.
- Admission of the illegal action or omission by the tenant to others.
- Omission of material facts known to the tenant (e.g., employment of the tenant or other household member).
- Falsification, forgery, or altering of documents.
- Uttering and certifying to statements at a rent (re)determination that are later independently verified to be false.

The Tenant Conference for Serious Violations and Misrepresentations

When the PHA has established that a material misrepresentation has occurred, a tenant conference will be scheduled with the family representative and the PHA staff person who is most knowledgeable about the circumstances of the case.

This conference will take place prior to any proposed action by the PHA. The purpose of such a conference is to review the information and evidence obtained by the PHA with the tenant, and to give the tenant an opportunity to explain any document findings that conflict with representations in the tenant file. Any documents or mitigating circumstances presented by the tenant will be taken into consideration by the PHA. The tenant will be given 14 days to furnish any mitigating evidence.

A secondary purpose of the tenant conference is to assist the PHA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the PHA may consider:

- The duration of the violation.
- The number of false statements.
- The tenant's ability to understand the rules.
- The tenant's willingness to cooperate and to accept responsibility for his/her actions.
- The amount of money involved. The tenant's history.
- The presence or absence of criminal intent.

Dispositions of Cases Involving Misrepresentations

In all cases of misrepresentations involving efforts to recover monies owed, the PHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

1. Criminal Prosecution: If the PHA has established criminal intent and the case meets the criteria for prosecution, the PHA may:

Refer the case to the local state or district attorney, notify HUD's regional inspector general for investigation (RIGI), and terminate rental assistance.

Administrative Remedies

The PHA may:

1. Terminate tenancy and demand restitution in full.
2. Terminate tenancy and execute an administrative repayment agreement in accordance with the PHA's repayment policy.
3. Terminate tenancy and pursue restitution through civil litigation.
4. Permit continued occupancy at the correct rent and execute an administrative repayment agreement in accordance with the PHA's repayment policy.

Notification to Tenant of Proposed Action

The PHA will notify the tenant of the proposed action by certified mail, with a return receipt, no later than 30 days after the tenant conference.

Chapter 18

VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

INTRODUCTION

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 your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

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

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality.

A. HUD-REQUIRED FORMS IN VAWA

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

1. Notice of Occupancy Rights under the Violence against Women Act, Form HUD-5380. VAWA requires PHA to notify public housing applicants and tenants their rights under the law, including their rights 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.
2. Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, Form HUD-5382.
3. Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5381.
4. Emergency Transfer Request for Certain Victims of Domestic Violence,Dating Violence, Sexual Assault, or Stalking, Form HUD-5383.
5. The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800- 787-3224 (TTY) (included in Form HUD-5380)

Whenever the PHA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For

example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

B. DOCUMENTATION

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

C. CONFLICTING DOCUMENTATION

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how determinations should be made. When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

D. DISCRETION TO REQUIRE NO FORMAL DOCUMENTATION

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

HUD FORM 5380

NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Expires 06/30/2017

Housing Authority of the County of San Diego

Notice of Occupancy Rights under the Violence Against Women Act[1]

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 Rental Assistance Progra**m is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under **Public Housing Rental Assistance Program**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under **Public Housing Rental Assistance Program**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of 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 **Public Housing Rental Assistance Program** solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

[1] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.
[2] 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

Housing Authority County of San Diego (HACSD) 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.

Specific lease language affirming the PHA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07]. However, perpetrators should be given no more than 30 days' notice of termination in most cases [Notice PIH 2017-08].

If **HACSD** chooses to remove the abuser or perpetrator, **HACSD** 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, **HACSD** 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.

Moving to Another Unit

Upon your request**, HACSD** 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, **HACSD** 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

(4) 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.

HACSD 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.

HACSD's emergency transfer plan provides further information on emergency transfers, and **HACSD** 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

HACSD 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 **HACSD** must be in writing, and **HACSD** 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. **HACSD** 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 **HACSD** as documentation. It is your choice which of the following to submit if **HACSD** 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 **HACSD** 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 HACSD has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, **HACSD** does not have to provide you with the protections contained in this notice.

If **HACSD** 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), **HACSD** has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, **HACSD** does not have to provide you with the protections contained in this notice.

Confidentiality

HACSD 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.

HACSD must not allow any individual administering assistance or other services on behalf of **HACSD** (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.

HACSD must not enter your information into any shared database or disclose your information to any other entity or individual. **HACSD**, however, may disclose the information provided if:

1) You give written permission to **HACSD** to release the information on a time limited basis.
2) **HACSD** 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.

3) A law requires **HACSD** or your landlord to release the information.

VAWA does not limit **HACSD**'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, **HACSD** 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 **HACSD** 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 **HACSD** can demonstrate the above, **HACSD** 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.

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 **Housing Authority of the County of San Diego, 3989 Ruffin Road, San Diego, California 92123 or the HUD Southern California Office, 300 N Los Angeles St #4054, Los Angeles, CA 90012, 213- 894-8000**.

For Additional Information

You may view a copy of HUD's final VAWA rule at www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, HACSD must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **Housing Authority County of San Diego, 3989 Ruffin Road, San Diego CA 92123.**

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). You may also contact **Break the Silence against Domestic Violence at 855-281- 1777.**

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 **Center for Community Solutions at 858-272-1767.**

Victims of stalking seeking help may **contact San Diego County Stalking Unit at 619- 515-8900**

Attachment: Certification form HUD-5382

HUD FORM 5381

MODEL EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development
OMB Approval No. 25770286
Expires 06/30/2017

Housing Authority County of San Diego

Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Emergency Transfers

The Housing Authority of the County of San Diego (HACSD) 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] HACSD 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 HACSD 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 HACSD 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 **Public Housing Rental Assistance Program** is 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.

[3] Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[4] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify HACSD's management office and submit a written request for a transfer to **3989 Ruffin Road, San Diego, California 92123.** HACSD 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 HACSD'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

HACSD will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives HACSD 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(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against Women Act For All Tenants for more information about HACSD'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

HACSD cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. HACSD 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.

HACSD may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If **HACSD** has no safe and available units for which a tenant who needs an emergency is eligible, **HACSD** 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**, HACSD** 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.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

HUD FORM 5382

CERTIFICATION OF DOMESTIC VIOLENCE
DATING VIOLENCE, SEXUAL ASSAULT OR
STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development
OMB Approval No. 25770286
Expires 06/30/2017

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): _____

9) 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.

HUD FORM 5382

EMERGENCY TRANSGER REQUEST
FOR CERTAIN VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

U.S. Department of Housing and Urban Development
OMB Approval No. 25770286
Expires 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 transfe**r. 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

4) **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

5) 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) _____

HOUSING OPPORTUNITIES THROUGH MODERNIZATION ACT EXHIBIT
Sections 102 and 104

INTRODUCTION

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the Public Housing and Section 8 Housing Choice Voucher programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. With the exception of certain sections related to public housing over-income families, which were effective on March 16, 2023, the effective date of the final rule is January 1, 2024. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the of the program changes of sections 102 and 104 as described in the Final Rule.

Overview

Compliance Date and Required Actions for PHAs (Office of Public and Indian Housing)

During Fiscal Year 2024-25, the PHA is transitioning from the current regulations governing income and rent calculation at 24 CFR 5.609 to updated regulations as required under HOTMA. To comply with HOTMA, PHAs must be able to submit transactions to the Housing Information Portal (HIP). This requires the PHA's software vendor to make system updates and fully convert to making all submissions to HIP. Each PHA will set its own compliance date as early as January 1, 2024, but no later than January 1, 2025. "Compliance" means, in this instance, utilizing the HOTMA rules as it applies to the affected programs and corresponding reporting in HIP. Prior to the PHA's compliance date, all initial and ongoing certifications will be performed in accordance with the PHA's pre-HOTMA policies. As of the PHA's compliance date, all initial and ongoing certifications will be performed using the PHA's new HOTMA policies which have been updated as required by HUD to enact income and rent calculation changes under HOTMA.

PHA Policy

HACSD's compliance date for HOTMA is January 1, 2025. HOTMA policies are not effective until that date.

The following sections in this chapter have been updated to reflect the HOTMA regulatory changes and HACSD policy. HACSD will implement these changes on January 1, 2025.

1. HOTMA Update: Chapter 2, Section A

- Description of Change: Added qualification to meet net assets and property ownership restriction requirements to qualification for admission.

A. QUALIFICATION FOR ADMISSION

It is the PHA's policy to only admit qualified applicants. A qualified meets the following criteria:

- In accordance with this Chapter, meets the definition of a family.
- Heads a household where at least one member of the household is either a citizen or eligible non-citizen. [24 CFR Part 5, Subpart E]
- Has an annual income at the time of admission that is at or below HUD-specified income limits for occupancy and posted separately in the PHA offices or on the PHA website. To be income eligible, a family must not have an annual income which does not exceed 80% of the median income for the area, adjusted for family size. (See also Income Targeting requirements in Chapter 4)
- Income and net family assets of non-family household members, such as foster adults, foster children, and live-in aides, are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.
- Provides a Social Security number for all family members, age 6 or older, or will provide written certification that they do not have Social Security numbers.
- Consents to the PHA's collection and use of family information as provided for in applicable consent forms
- Meets or exceeds the tenant Selection and Suitability Criteria as set forth in this policy.
- Not currently receiving a duplicative subsidy.
- Meets net asset and property ownership restriction requirements.

2. HOTMA Update: Chapter 2, Section B. Family Composition, Definition of a Family

- Description of Change: Added youth as new category in definition of a family.

B. FAMILY COMPOSITION

Definition of 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 actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person.

- An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at 16 or older.

  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. Gender Identity means actual or perceived gender characteristics. Sexual orientation means homosexuality, heterosexuality, or bisexuality.

PHA Policy:

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

The PHA includes a registered domestic partnership, as recognized by state law, in the definition and all references to marriage.

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.

3. **HOTMA Update: Chapter 2, Section B. Family Composition, Dependents and Minors**

- Description of Change: Added definition of a minor.

Dependents and Minors

A minor is a member of the family, other than the head of the family or spouse, who is

under 18 years of age.

A dependent is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, 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.

Joint Custody of Dependents

PHA Policy:
Children, who are subject to a joint custody agreement but live with the applicant/participant more than 50 percent of the time, will be considered members of the household. More than 50 percent of the time is 183 or more cumulative days during the year. In cases where separated parents are trying to claim the child as a member of the household, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent. In a joint custody arrangement, if the minor is in the household less than six months per year, the minor will be considered to be an eligible visitor and not a family member.

4. **HOTMA Update: Chapter 2, Section B. Family Composition, Foster Children and Foster Adults**

- Description of Change: Updated definitions of foster adults and children.

Foster Children and Foster Adults

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

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

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

PHA Policy
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.

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

Documentation must be submitted to verify the identity of the foster children/adults, to confirm they are foster children/adults, to confirm the foster children/adults are legal U.S. residents and the benefits are paid on behalf of the foster children/adults.

Foster children/adults are not subject to non-citizen rule requirements, but the placement agency must confirm they are legal U.S. residents.

A streamlined documentation process is acceptable for foster children/adults expected to be in the household for a short period of time. Foster children/adults expected to be in the household at least one year are considered a part of the family in determining the subsidy standards and income limits.

The criminal history of adult foster children must be verified prior to admission to the household and whenever the criminal history of adult family members is reviewed. Adult foster children must sign release of information forms so that criminal history can be verified.

5. **HOTMA Update: Chapter 2, Section D. Family Consent to Release Information**

- Description of Change: Previously adults had to sign HUD consent forms once a year. Now adults have to sign just once and may revoke consent in writing. Revoking consent will lead to denial or termination of assistance.

D. FAMILY CONSENT TO RELEASE INFORMATION

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

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

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

PHA Policy
Families have a right to revoke consent by notice to the PHA, however revoking consent will result in termination of assistance or denial of admission.

In order for a family to revoke their consent, the family must provide written notice to PHA.

Within 10 business days of the date the family provides written notice, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PHA will notify their local HUD office.

6. **HOTMA Update: Chapter 2, Section F. OTHER ELIGIBILITY CRITERIA, Restriction on Assistance Based on Assets**

- Description of Change: Added segment below

Restriction on Assistance Based on Assets (24 CFR 5.618)
There are two circumstances under which a family is ineligible for the program based on asset ownership.
First, assistance may not be provided to any family if the family's net assets exceed $100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or

- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered suitable for occupancy unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

  PHA Policy
  The PHA defines not sufficient for the size of the family as being overcrowded based on the PHA's occupancy standards

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

7. **HOTMA Update: Chapter 6, INCOME AND RENT RETERMINATIONS**

- Description of Change: Replaced entire chapter to align with HOTMA regulations.

Chapter 6

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

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

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

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

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

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

PART I: ANNUAL INCOME

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

Annual income includes:

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

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24

CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

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

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

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

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

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

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

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

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

	All sources of unearned income, except those specifically excluded by the regulations, are included.

PHA Policy

For admission, an unborn child is not considered when determining the income limits. For example, a pregnant single person is considered a one-person household when determining the income limits. To determine if the family is income-eligible for admission, the HACSD compares the annual income of the family to the applicable income limit for the family's size. Newly admitted families who exercise portability prior to receiving initial assistance must be within the applicable income limit of the receiving PHAs. This requirement does not include those who had been participants with the initial PHA.

Temporarily Absent Family Members

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

PHA Policy

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

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

Absent Students

PHA Policy

Full time students who attend school away from the home will be treated in the following manner:

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may in certain circumstances, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of unit size.

Students going to a public/private elementary or high school and/or living with family or friends (refer to shared custody) or students who have established separate households as indicated by one-year lease agreements must be considered permanently absent.

Absences Due to Placement in Foster Care

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

PHA Policy

If a child has been placed in foster care, 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 continue to be counted as a family member. If the child has been removed permanently, the family may be required to move to a smaller sized unit in accordance with the PHA's occupancy guidelines.

Absent Head, Spouse, or Cohead

PHA Policy

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

Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations,* p. 12].

PHA Policy

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the PHA will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member will not be considered permanently absent, as long as rent and other charges remain current.

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

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the PHA's "Absence of Entire Family" policy.

Joint Custody of Children

PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or participant family 50 percent or more of the time. More than 50 percent of the time is 183 or more cumulative days during the year. In cases where separated parents are trying to claim the child as a member of the household, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent. In a joint custody arrangement, if the minor is in the household less than six months per year, the minor will be considered to be an eligible visitor and not a family member.

Caretakers for a Child

PHA Policy

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

If an appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period when both parents are absent, the PHA will treat that adult as a visitor for the first 14 calendar days.

If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, and the caretaker qualifies under Tenant Suitability criteria, the lease will be transferred to the caretaker.

If the court has not awarded custody or legal guardianship, but the action is in process, the PHA will secure verification from social services staff or the attorney as to the status.

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made.

The PHA will transfer the lease to the caretaker, in the absence of a court order, if the caretaker qualifies under the Tenant Suitability criteria and has been in the unit for more than six months and it is reasonable to expect that custody will be granted.

When the PHA approves a person to reside in the unit as caretaker for the child(ren), the income of the caretaker should be counted, pending a final disposition. The PHA will work with the appropriate service agencies to provide a smooth transition in these cases.

6-I.C. CALCULATING ANNUAL INCOME

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

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

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

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

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

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

Known Changes in Income

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

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case the PHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 12.

Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023-27]

At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however,

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

PHA Policy

For annual reexaminations the PHA must determine the income of the family for the previous 12-month period, except:

- The PHA must take into consideration any redetermination of income during the previous 12-month period resulting from an interim reexamination, and
- The PHA determination must reflect current income if there was a change during the previous 12-month period that was not accounted for in a redetermination of income.

6-I.D. EARNED INCOME

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]

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

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

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

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

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

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

Military Pay
All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].

Earnings of a Minor [24 CFR 5.609(b)(3)]
A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]
The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

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

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]

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

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

Calculation Method

Initial 12-Month Exclusion

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

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

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

> PHA Policy
> During the second 12-month exclusion period, the PHA will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on December 31, 2025. In no circumstances will a family member's exclusion period continue past January 1, 2026.

Individual Savings Accounts [24 CFR 960.255(d)]
The PHA may, but is not required to, establish a policy to offer a qualified family paying income-based rent an ISA instead of being given the EID.

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

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

Annual income includes "net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses. Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family."

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

Independent Contractors

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

Business Expansion

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

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

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

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

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

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

PHA Policy
Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

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

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

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

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

Types of Assistance

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

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

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

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

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

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

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the education institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

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

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;

- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:
- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]
The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

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

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

Example 1
- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

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

applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.
If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

Example 2

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

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

Example 3

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

Example 4

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

- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

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

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

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

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

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

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

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

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

If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance

with PHA policies in Chapter 12. If not, the PHA will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]
Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.
However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2023-27]
The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

PHA Policy
Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

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

PHA Policy

The PHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The PHA will count court-awarded amounts for alimony and child support unless the family certifies and the PHA verifies that the payments are not being made.

In order to verify that payments are not being made, the PHA will review child support payments over the last three months.

If payments are being made regularly, the PHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the PHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the PHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the PHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, the PHA will not include alimony or child support in annual income

6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;

- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

6-I.J. WELFARE ASSISTANCE

Overview

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

Cooperation Agreements

The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self- sufficiency programs throughout the community that are available to public housing residents.

The PHA and the local welfare agency have mutually agreed to notify each other of any economic self-sufficiency and/or other appropriate programs or services that would benefit public housing residents.

The PHA has a cooperation agreement in place with the local welfare agency. The PHA has access to the welfare agency's database and can search welfare participant records. In addition,

the PHA has a verbal cooperation agreement with the local welfare agency for verbal confirmation of a family's sanction status.

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]
The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving rental assistance at the time the sanction was imposed.

Covered Families
The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income
When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.
This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets
The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

PHA Policy
If the family disputes the amount of imputed income and the PHA denies the family's request to modify the amount, the PHA will provide the tenant with a notice of denial, which will include:

- An explanation for the HACSD's determination of the amount of imputed welfare income
- Opportunity to request an informal hearing

6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income. Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed $50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]

Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].

- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].

Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

PHA Policy

The PHA defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].

In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements.

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].
  HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:
  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
  (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
  (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
  (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
  (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
  (l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
  (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
  (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
(p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
(r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)
(v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
(w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
(aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

PART II: ASSETS

6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.
Optional policies for family self-certification of assets are found in Chapter 7.

Income from assets is always anticipated, irrespective of the income examination type.

> PHA Policy
> The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The PHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the 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.
>
> Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.
An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

Minimum Threshold
HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations,* p. 24].

PHA Policy
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 $10,000.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

PHA Policy
All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy
Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

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

Family Declaration

PHA Policy
Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The 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.

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than $50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than $50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is $0.

PHA Policy
The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds $50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed $50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) Furniture, carpets, linens, kitchenware Common appliances Common electronics (e.g., radio, television, DVD player, gaming system) Clothing Personal effects that are not luxury items (e.g., toys, books) Wedding and engagement rings Jewelry used in religious/cultural celebrations and ceremonies Religious and cultural items Medical equipment and supplies Health care–related supplies Musical instruments used by the family Personal computers, phones, tablets, and related equipment Professional tools of trade of the family, for example professional books Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities	Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) Recreational boat/watercraft Expensive jewelry without religious or cultural value, or which does not hold family significance Collectibles (e.g., coins/stamps) Equipment/machinery that is not used to generate income for a business Items such as gems/precious metals, antique cars, artwork, etc.

Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	

PHA Policy

In determining the value of non-necessary personal property, the PHA will use the family's estimate of the value.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

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

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

PHA Policy
Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Jointly Owned Assets [Notice PIH 2023-27]

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

  PHA Policy

  If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

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

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an

irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds $50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family. At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered $0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and

- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

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

> PHA Policy
> Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations,* p. 24].

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

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered $0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed $50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total $50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

Imputed Income from Assets

When net family assets exceed $50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of $0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:
(a) *Mandatory deductions*
(1) $480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of $25);
(2) $525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of $25);
(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;
(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and
(4) Any reasonable 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 7.

Anticipating Expenses

PHA Policy

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the 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.

When calculating health and medical care expenses, the PHA will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations,* p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

6-III.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(1)].

Dependent is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses

include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed."

Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition of *health and medical care expenses*.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

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

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses.

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

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].
The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

PHA Policy
The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the 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 expenses will be capped by the sum of the family members' incomes. [New PH OCC GB, *Income Determination,* p. 28].

Eligible Auxiliary Apparatus [Notice PIH 2023-27]

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

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 give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included. See 7-IV.C. for required documentation.

Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

PHA Policy

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

If the care attendant also provides other services to the family, the 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.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

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

PHA Policy

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.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

PHA Policy
This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.
When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses.

6-III.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for 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."

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

PHA Policy
The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the 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

PHA Policy
If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the PHA. The number of hours claimed for childcare may not exceed the time taken to actively seek employment as indicated on the family member's written log.

Furthering Education

PHA Policy
If the child care expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The PHA will request proof of enrollment in an academic or vocational school or a formal training program and the hours of classes or training. The documentation may be provided by the family and may include a copy of the schedule of classes. The family member is not required to be a full-time student, but the number of hours claimed for child care may not exceed the number of hours the family member is attending school, plus reasonable transportation time not to exceed one hour per day.

Being Gainfully Employed

PHA Policy
If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during

the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction
When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

PHA Policy
The maximum childcare expense allowed cannot exceed the amount earned by the person enabled to work whose income is actually included in the family's annual income. The "person enabled to work" will generally be the adult member of the household who earns the least amount of income from working, unless the family provides documentation that justifies the designation of another family member as the person enabled to work. The number of hours of allowable childcare cannot exceed the number of hours worked plus reasonable transportation time not to exceed one hour per day, of the person enabled to go to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

PHA Policy
For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities

after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the 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.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

PHA Policy
Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the PHA will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. If the family presents a justification for costs that exceed the standard costs in the area, the HACSD will request additional documentation, as required, to support a determination that the higher cost is appropriate.

6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
- When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.

PHA Policy
The PHA will continue the phased-in relief for families who move from the HCV program to public housing.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or

- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.
The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

PHA Policy
To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. The PHA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship. In determining whether to grant a hardship waiver for the unreimbursed health and medical expense threshold under hardship Category Two, the following criteria applies:

1. The household was not eligible for the Category One phase-in due to expense below 3% of annual income as of January 1, 2025, but has now experienced an increase in health and medical care expenses; or

2. The household, regardless of Category One eligibility, experienced an increase in health and medical care expenses or experienced an unanticipated household change which results in an increase in the family's rent portion that causes an inability to pay rent. An inability to pay rent will be defined as having a family rent share in excess of 40% of the family's monthly adjusted income that is not solely the result of a contract rent increase.

3. The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

PHA Policy
The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs are not limited to a maximum number of 90-day extensions.

PHA Policy
The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

PHA Policy

PHA defines a hardship under this category as a temporary circumstance requiring the family member qualifying for the deduction to leave the qualifying activity for an unanticipated reason, such as to care for a family member, which both requires the continuation of the childcare and creates a rent burden that cannot be resolved with an interim reexamination.

PHA defines a family's inability to pay rent as an increase in the family's rent portion to that which exceeds 40% of the family's adjusted monthly income which is not solely the result of a contract rent increase.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a grievance hearing.

If the family qualifies for an exemption, the PHA will all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary, and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

PHA Policy
The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(i)]

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the ACOP. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ

GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such deductions.

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

PHA Policy
The PHA has opted not to use permissive deductions.

PART IV: CALCULATING RENT

6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the PHA

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

Welfare Rent [24 CFR 5.628]

PHA Policy
Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

PHA Policy
The minimum rent for is $0.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

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

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

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

PHA Policy
The PHA chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 982.514(b); 982.514]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

PHA Policy
The PHA will make utility reimbursements to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or

less. Reimbursements must be made once per calendar-year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The PHA must issue reimbursements that exceed $15.00 per month on a monthly basis.

PHA Policy
The HACSD will issue all utility reimbursements monthly but may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Payments may be prorated if the family leaves the program in advance of the next quarterly reimbursement. Families on quarterly reimbursements may request monthly payments if receiving quarterly reimbursements would create a hardship.

6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

PHA Policy
The financial hardship rules described below do not apply in this jurisdiction because the PHA has established a minimum rent of $0.

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship. The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

PHA Policy
A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the

decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

PHA Policy
For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

PHA Policy
In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

PHA Policy
The PHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.
The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

PHA Policy
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.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income	$0 30% of monthly adjusted income

$15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

PHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

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

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

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

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

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

PHA Policy
The PHA will enter into a repayment agreement in accordance with the PHA's repayment agreement policy

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.

PHA Policy

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

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.
(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-IV.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

The PHA must establish separate allowances for each utility and for each category of dwelling units the PHA determines to be reasonably comparable as to factors affecting utility usage. The objective of a PHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the PHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505]. Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

Reasonable Accommodation and Individual Relief

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

PHA Policy

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

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

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

Utility Allowance Revisions [24 CFR 965.507]

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

The PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

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

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

6-IV.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. Except for non-public housing over income families, the PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the PHA must:

(1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
(3) Multiply the member maximum subsidy by the number of eligible family members.
(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

PHA Policy
Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

(6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

6-IV.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 12.

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the PHA may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits PHAs to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

In order to demonstrate the need for an exception flat rent, PHAs are required to submit a market analysis methodology that demonstrates the value of the unit. The PHA must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, PHAs must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property/unit
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA and/or landlord for (comparable units in the market study)
- The PHA must provide a corresponding key explaining the calculations used for determining the valuation for each factor.

Review of Flat Rents

The PHA shall ensure that flat rents continue to mirror market rent values [24 CFR 960.253(b) and Notice PIH 2017-23. No later than 90 days after HUD publishes new annual FMRs, the PHA will revise flat rents as necessary based on the rent reasonableness analysis and changes to the FMR.

Posting of Flat Rents

The PHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable PHA or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The PHA shall maintain records that document the method used to determine flat rents, and that show how the flat rents were determined by the PHA in accordance with this method.

The PHA's flat rents are effective December 1, 2023, and are as follows:

Development	Flat Rent	Minus the Utility Allowance	Adjusted Flat Rent
Town Centre Manor			
1 BDRM	1592	47	**1545**
Melrose Manor			
2 BDRM	2072	77	**1995**
3 BDRM	2792	94	**2698**
L Street Manor			
3 BDRM	2792	96	**2696**
Dorothy Street Manor			
3 BDRM	2792	94	**2696**

The PHA shall review the income of all families paying flat rent not less than once every three years. The family composition shall be reviewed annually for all families, including those paying flat rent.

Family Choice in Rents [24 CFR 960.253(a) and (e)]
With the exception of non-public housing over income families, once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

PHA Policy
The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The 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 or annual reexamination process.

The PHA must provide sufficient information for families to make an informed choice. This information must include the PHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the PHA is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

With the exception of non-public housing over-income families, a family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

> PHA Policy
> Upon determination by the PHA 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 experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items
- Such other situations determined by the PHA to be appropriate. All hardship situations will be verified.

> PHA Policy
> 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]. Once a family switches to income-based rent due to hardship, the family must wait until the next annual reexamination to elect whether to pay income-based rent or flat rent.

Phasing In Flat Rents [Notice PIH 2017-23; 24 CFR 960.253(b)]

When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased-in at the time of their annual recertification. To do this, PHAs conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased-in, the PHA must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under the PHA's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2017-23 requires that flat rents must be phased in at the full 35 percent per year. PHAs do not have the option of phasing in flat rent increases at less than 35 percent per year.

Example: A family was paying a flat rent of $500 per month. At their annual recertification, the PHA has increased the flat rent for their unit size to comply with the new requirements to $700. The PHA conducted a flat rent impact analysis as follows:

$500 x 1.35 = $675

Since the PHA's increased flat rent of $700 resulted in a rent increase of more than 35 percent, the PHA offered the family the choice to pay either $675 per month or an income-based rent. The flat rent increase was phased in. At their next annual recertification in November 2015, the PHA will again multiply the family's current flat

Flat Rents and Earned Income Disallowance [A&O FAQs]

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Annual Reexamination

Ninety to One hundred twenty days in advance of the annual reexamination, the family will be sent a form from the PHA, on which the family will indicate whether they choose flat rent or income-based rent. The PHA form will state what the flat rent would be, and an estimate, based on current information, what the family's income-based rent would be.

If the family indicates they choose flat rent, the family will fill out and return a PHA form to certify family composition. This form will be retained in the tenant file.

If the family indicates they choose income-based rent, a reexamination appointment will be scheduled according to PHA policy in Chapter 12

EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) 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

(2) 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.

(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)€ 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 part-time 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 fulltime 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 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 6-2: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) 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 nonnecessary 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 6-3: 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 an assisted resident 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.

8. **HOTMA Update: Chapter 7, VERIFICATION PROCEDURES**

- Description of Change: Replaced entire chapter to align with HOTMA regulations.

Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

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

The PHA must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259; 24 CFR 5.230; and Notice PIH 2023-27]

Consent Forms

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

All required releases must be completed "as is" by all adult family members, live-in aides and adult foster children. These forms may not be crossed out, amended, added to, or in any way altered. To do so is a program violation.

In addition, adult family members, live-in aides and adult foster children must sign additional release of information authorization forms, not covered by the above HUD required form.

Adults who are required to sign forms to release specific information will be provided copies of the forms for their review and signature.

Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

> PHA Policy
>
> Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401),

whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]
If any family member who is required to sign a consent form fails to do so, the PHA must deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the PHA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

> PHA Policy
> Families have a right to revoke consent by notice to the PHA, however revoking consent will result in termination of assistance or denial of admission.
>
> In order for a family to revoke their consent, the family must provide written notice to PHA.
>
> Within 10 business days of the date the family provides written notice, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PHA will notify the local HUD office.

7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);

- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register.*

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;

State the family size;

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the PHA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in this Plan. In this case, the PHA will use third-party verification to verify the change.

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

- The PHA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.
- The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.
- The PHA will document in the file how the determination that a source of income was fixed was made.
- Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.
- If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

The PHA will apply a COLA to each of the family's sources of fixed income.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

- Of all assets when net family assets exceed $50,000;
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;

- During the intake process and at least once every three years thereafter.

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds $50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "tenant-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

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

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.

7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

PHA Policy

The PHA will not disclose information obtained through the UIV system to any person other than the person the income information pertains to, even if another person has a release of information. The PHA will restrict access and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD. UIV information will be retained in the confidential applicant/participant file and will be destroyed when the file is destroyed, in accordance with the PHA's records retention policies.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

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

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

> PHA Policy
> Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the PHA will obtain EIV Income and IVT reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.
>
> Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.
>
> Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy in accordance with PHA record retention policy.
>
> When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in the Program Integrity chapter.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

> PHA Policy
> In accordance with PHA policies found in this Plan, the PHA processes an interim reexamination for families who have increases in earned income when there was a previous decrease. Except for instances in which the PHA uses Safe Harbor income determinations to determine a family's annual income, the PHA will review the report quarterly.

Unreported Income Reported by HHS or SSA Report

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that they tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

> PHA Policy
>
> The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.
>
> The PHA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.
>
> When the PHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in the Program Integrity chapter.

EIV Identity Verification Report

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

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

PHA Policy

The PHA will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve 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.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

PHA Policy

The PHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must conduct a home visit to determine if anyone is residing in the unit.

PHAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the PHA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

PHA Policy

The PHA will inform all applicants and residents of its use of the following UIV resources:

- The Work Number
- Local Public Assistance provider online informational link
- Computer Matching

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

PHA Policy

At annual reexamination, if the PHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the PHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The PHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below.

The PHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as "tenant-provided verification." In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to 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. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

PHA Policy

In general, the PHA will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The PHA will not use this method if the PHA is able to use an income determination from a means-tested federal assistance program or if the PHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the PHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

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. 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 from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the PHA will obtain one statement that reflects the current balance of the account.

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

7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023-27]

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

> PHA Policy
> Typically, the PHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.
> However, on a case-by-case basis, the PHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

> PHA Policy
> In general, the PHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the PHA will accept self-certification from the family without attempting to obtain oral third-party verification.
>
> However, if the PHA chooses to obtain oral third-party verification, the PHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

When Third-Party Verification is Not Required [Notice PIH 2023-27]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

PHA Policy

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 [VG, p. 18].

Primary Documents
Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.
Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total $50,000 or less and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

PHA Policy
When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the 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 will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

PHA Policy
The PHA will require families to furnish verification of legal identity for each household member.
The following documents may be accepted as proof of identify, birth, and residency of assisted family members:

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
o Certificate of birth, naturalization papers o Church issued baptismal certificate o Current, valid driver's license or Department of Motor Vehicle identification card o U.S. military discharge (DD 214) o Current U.S. passport o Current government employer identification card with picture	o Certificate of birth o Adoption papers o Custody agreement o Health and Human Services ID o Certified school records o SSA documents

The following documents may be temporarily accepted as proof of identity:

- Hospital birth certificate
- Voter's registration
- Company/agency identification card
- Hospital records
-

For a live-in aide, the birth certificate or another document listed above must be provided to verify legal residency.

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2023-27]

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.
The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, tax document, or benefit letter) with the applicant's name and SSN printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the

name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

PHA Policy
The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

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

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

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

When a resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

PHA Policy

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

Social security numbers must be verified only once during continuously assisted occupancy.

PHA Policy

The PHA will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

PHA Policy
Once an individual's status is classified as "verified" in HUD's EIV system, the PHA will not remove and destroy copies of documentation accepted as evidence of social security numbers. If the family member states they have not been issued a social security number by the SSA, the family member will be required to make such declaration in writing and under penalties of perjury.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

PHA Policy
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.

7-II.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

PHA Policy
Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification including:

- Official identification showing names
- Birth certificates
- Baptismal certificates
- Verification of guardianship is:
- Court-ordered assignment
- Notarized affidavit of parent
- Verification from social services agency
- School records

Evidence of an established family relationship:

- Joint bank accounts or other shared financial transactions Leases or other evidence of prior cohabitation
- Credit reports showing relationship

Marriage

PHA Policy
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 with a marriage certificate or other documentation to verify that the couple is married. Online data confirmation from public records may also be used to verify information.

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).

A Certificate of Registration of Domestic Partnership or other state documentation generally is required to verify that a couple is registered as domestic partners.

Separation or Divorce

PHA Policy
Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a divorce or separation, the PHA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated. A Notice of Termination of Domestic Partnership or, if applicable, a dissolution decree, signed by a court officer, is required to document the termination of domestic partnership.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

PHA Policy

If an adult member, formerly a member of the household, is reported permanently absent by the family, the HACSD will generally accept certification by the family of that family member's absence. If the HACSD has reasonable doubt about the absence of the family member, one or more of the following documents will be required as verification:

- Documentation of legal separation (required in order to exclude income of absent spouse).
- Order of protection/restraining order obtained by one family member against another.
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, lease, rental agreement, automobile registration, mail at new address, or credit report reflecting new address, if available.
- Statements from other agencies, such as social services, or a written statement from the landlord or manager, that the adult family member is no longer living at that location.
- If a family member is incarcerated, a document from the court or correctional facility stating how long s/he will be incarcerated.
- Verification from a medical professional if a family member is confined to a nursing home or hospital on a permanent basis.

The HACSD will accept a notarized self-certification, signed under penalty of perjury, from the head of household, or the spouse or co-head, if the head is the absent member.

Foster Children and Foster Adults

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

The verification must include name, address, telephone number and contact name and telephone number of the placement agency; and, name, date of birth, social security number, the estimated length of placement, the residency status, and type and monthly amount of benefits of the foster adult/child.

A foster adult must sign the necessary consent forms to verify criminal history.

Change in Family Composition
The PHA may verify changes in family composition, either reported or unreported, through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or Department of Motor Vehicles (DMV) records, and other sources.

7-II.E. VERIFICATION OF STUDENT STATUS

PHA Policy
The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a child care deduction to enable a family member to further their education.

Verification of full-time student status must include one of the following:

- Written verification from the registrar's office or other school official
- School records indicating enrollment for the sufficient number of credits to be considered a full-time student by the educational institution
- Copy of student's registration information indicating the semester and the number of credits taken

If the status is questionable, the family may be required to provide verification of completion of classes (e.g. transcript) to verify that the student maintained their full-time student status. If the full-time student did not maintain their full-time status and assistance was overpaid, an overpayment agreement will be calculated and executed.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving Public Housing assistance.

PHA Policy

In accordance with the verification hierarchy, the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965).
- The student is at least 24 years old.
- The student is a veteran.
- The student is married.
- The student has at least one dependent child.
- The student is a person with disabilities and was receiving assistance prior to November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility or the student's independence from their parents (see below).

Parental Income of Students Subject to Eligibility Restrictions

PHA Policy

The income of the parents of a non-independent student will be counted to determine income eligibility based on a written certification, under penalty of perjury, completed by the parents. The PHA will determine the income eligibility of the non-independent student's parents as follows:

If the student's parents are married and living together, the PHA will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, the PHA will obtain an income declaration and certification of income from each parent.

If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, the PHA will require the student to submit a certification describing the circumstances and stating that the student does not receive financial assistance from the other parent. The PHA

will then obtain an income declaration and certification of income from the parent with whom the student has been living.

The PHA will use the income limits that apply where the parent with the highest income lives.

The PHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

Independent Student

PHA Policy

The PHA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student*
- Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student*
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0, except in cases in which the PHA determines that the student is a *vulnerable*

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov.

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

PHA Policy
For family members claiming disability who receive disability payments from the SSA, the PHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the 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, they will be required to provide the letter to the PHA.

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.

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

As a reasonable accommodation to a person with disabilities, other credible evidence may also be accepted if it is determined that, due to the nature of the disability, the disabled person is unable to seek or maintain a relationship with a knowledgeable professional for sufficient time to allow the professional to develop an opinion or diagnosis.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

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 the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or 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)]

U.S. Citizens and Nationals

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

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

> PHA Policy
> Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants

Documents Required

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

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 7-1 at the end of this chapter summarizes documents family members must provide.

A birth certificate is not an acceptable verification of eligible immigration status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

PHA Verification [HCV GB, pp 5-3 and 5-7]

The PHA will follow all USCIS protocols for verification of eligible immigration status.

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

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

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form, with the exception of live-in aides and foster children/adults, and all household members including live-in aides, must provide original immigration documents. Front and back copies are retained and the original immigration documents are returned to the family. The HACSD verifies the eligible immigration status through the USCIS SAVE system. If the initial search fails to verify status, the HACSD will request, within 10 days, that the USCIS conduct a second manual search. If the documents have an expiration date, the applicants/participants must provide either a current document or an USCIS screen print of their current status.

A live-in aide's legal residency will be confirmed through documents. The legal residency of foster children/adults will be verified with the placement agency.

Failure to Provide. If an applicant or tenant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information. . A live-in aide will be prohibited admission to the household to serve as a live-in aide if the live-in aide fails to provide documentation of legal residency.

Extensions of Time to Provide Documents. The PHA will grant an extension of 30 days for families to submit evidence of eligible immigrant status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

PHA Policy

1. **Residency Preference:** For families, who live, work or have been hired to work in the jurisdiction of the PHA. It also includes a member of the family who works or has been notified they have been hired to work in the PHA jurisdiction regardless of the length of time.

   In order to verify that an applicant is a resident, the PHA, with the exception of homeless applicants, will require a minimum of three of the following documents: rent receipts, leases, utility bills, employer or agency records, school records, drivers licenses, voters registration records, credit reports, statement from household with whom the family is residing.

   For families who have been hired to work in jurisdiction of the PHA, a statement from the employer will be required.

For homeless applicants, self-declaration and documentation demonstrating they were living in San Diego County are sufficient.

2. **Veterans Preference:** This preference is available to current members of the U.S. Military Armed Forces, veterans, or surviving spouses of veterans. A veteran with a dishonorable discharge does not qualify for this preference.

   The PHA will require U.S. government documents, which indicate that the applicant qualifies under the above definition.

3. **Working Preference:** This preference is available for families where the head of household, spouse, or sole member is employed and has worked an average of at least 20 hours per week for the previous six months, or meets other requirements as outlined in Chapter 4. The PHA will require the working member's recent paystub(s) or a statement from the employer. If the preference is based on head of household, spouse, or sole member receiving unemployment, disability, or worker's compensation, the PHA will require recent benefit statements or award letters. The PHA will also give the benefit of this preference to families where the head of household, spouse or co- head is age 62 or older; and to families where the head of house or spouse meets the disability definition in CFR 5.403.

4. **Educational/Training Tenants:** This preference is available for families who are graduates of or tenants in educational or training programs designed to prepare the individual for the job market. The PHA will require a statement from the agency or institution providing the education or training.

5. **Disability Preference:** This preference is available to families with a head of household or spouse who is a person with disabilities, as defined by HUD.

   The PHA will request appropriate documentation from a knowledgeable health professional. The HACSD will not inquire as to the nature of the disability but will ask a knowledgeable health professional to confirm that the person meets the HUD definition of disability.

   Other acceptable documentation of disability is either an award letter, or proof of eligibility for social security disability or supplemental security income.

   The PHA may accept as a reasonable accommodation other credible evidence that the person meets the disability definition.

6. **Elderly Preference:** This preference is available to families with a head of household or spouse who is 62 years of age or older.

   The PHA will require appropriate proof of age as verified by submittal of one or more of the following documents: birth certificate, passport, driver's license or resident alien card.

7. **Families with Dependent Children:** This preference is available to families who have dependent children who currently live or will be living with the family in the public housing unit. The PHA will require copies of birth certificates and Social Security Cards of the children, as well as absent parent and child support documentation, if applicable. A pregnant single person is no different than any other single applicant and is **not** considered a family with dependent children for admission preference purposes.

   In most instances, self-certification is acceptable, unless there is reasonable doubt, in which case the HACSD will ask for further documentation of the placement of the children. This documentation of residence of the children may include:

   School records, Court custody documents, leases, welfare agency information, and medical records.

8. **Homeless:** This preference is available to those who are either without housing, or are residing in non-residential dwellings. The PHA will require documentation to verify that the family or individual is living in San Diego County, such as a driver's license, pay stub, etc. In addition, if the family or individual cannot provide documentation they were living in the jurisdiction of the PHA, a notarized declaration will be acceptable. Motel, food, or other receipts may be accepted as documentation of the residency preference.

   Special Local Preference for Homeless Applicants, Regional Taskforce on the Homeless agency members: The documentation is significantly more stringent for homeless households claiming a special local preference. In addition to the applicable documents listed above, documentation must include:

   PHA-approved referral documentation.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

PHA Policy
The following policies do not apply when the PHA uses a safe harbor income determination from a means-tested federal assistance program.

7-III.A. EARNED INCOME

Tips

PHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

PHA Policy
When the PHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

Verification forms may request the employer specify:

- Dates of employment
- Amount and frequency of earnings
- Date of last pay increase
- Earning history
- Year-to-date earnings
- Expected change in employment status
- Effective date of any anticipated wage increase during next 12 months
- Estimated income from overtime, tips, and bonus pay expected during next 12 months
- Anticipated unpaid time off

Acceptable methods of verification include:

- Employment verification form completed by the employer
- Check stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year-to-date earnings
- W-2 forms or 1099 forms, plus income tax return forms
- Self-certifications or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service (IRS) for verification of income, if there is evidence income has not been reported.

In cases with questions about the validity of information provided by the family, the HACSD may require the most recent federal income tax statements or send a referral to the IRS.

Bonuses and/or Commission
For regularly received bonuses and/or commission, the HACSD will verify and average amounts received for one year preceding admission or reexamination, unless the family can provide credible documentation indicating the historical information is incorrect.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

PHA Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

Acceptable methods of verification include:

- IRS Form 1040, including:
- Schedule C (Small Business)
- Schedule K-1 (Partnership)
- Schedule E (Rental Property Income)
- Schedule F (Farm Income)
- Financial statement(s), either audited or not audited, of the business
- Credit report or loan application
- Business Ledgers
- Family's self-certification as to net income realized from the business during previous years

For self-employed individuals who claim they do not have to file tax returns, the PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the PHA may request documents that

support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

It is the family's responsibility to provide documentation of income and expenses in good order with everything organized, recorded and totaled. The PHA will reject documentation that has not been organized and totaled; e.g., an unorganized bundle of receipts.

Child Care Business
If an applicant/participant is operating a licensed day care business, income will be verified as for any other type of business.
If the applicant/participant is operating a "cash and carry" operation, which may or may not be licensed, the HACSD may require that the applicant/participant complete a form for each customer. The form must indicate the name of person(s) whose child (children) is/are being cared for, phone number, number of hours the child is being cared for, method of payment (check/cash), amount paid, and signature of person who receives the services.

The family ***must*** provide a copy of its federal income tax return, if it was filed.
The family must indicate if it is receiving a food allowance or other compensation to offset business expenses. Third-party verification will be requested if another public entity, such as HHSA, is providing compensation to the child care provider.

If none of the above documents is available, the family may provide a notarized self-certification, signed under penalty of perjury, as to gross income received the previous year, as well as anticipated gross income for the next year.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

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

Social Security/SSI Benefits

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

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable

to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

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

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.
- Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

Other Benefit Income

PHA Policy
Acceptable methods of verification include:

- Benefit verification form completed by agency providing the benefits
- Award or benefit notification letters prepared and signed by the providing agency
- Computer report electronically obtained or in hard copy
- Pay stubs
- Bank statements that reflect direct deposits

Unemployment Compensation
PHA Policy
Acceptable methods of verification include:

- Unemployment compensation agency verification form
- Unemployment office computer report e-mailed, faxed, or in hard copy.
- Payment stubs.
- Agency award letter

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

PHA Policy
The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copies of the receipts and/or payment stubs for the 12 months prior to PHA request

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

Third-party verification form from the person paying the support

Family's self-certification of amount received

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

PHA Policy
The PHA will require third-party verification that income will not be repeated in the coming year. However, the PHA will accept self-certification from the family stating that the income will not be repeated in the coming year if third-party verification cannot be obtained.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling $50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed $50,000 without taking any additional steps to verify the accuracy of the declaration.

The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed $50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over $50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed $50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

PHA Policy

For families with net assets totaling $50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets at admission and every three years.

When verification is required or is provided by the family, in determining the value of checking or savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in the ACOP. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

PHA Policy

Both at admission and reexam, the PHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value if the value of the assets does not exceed $10,000.

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 resident reported a $10,000 certificate of deposit 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.

7-III.H. NET INCOME FROM RENTAL PROPERTY

PHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below $50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than $50,000.

7-III.J. RETIREMENT ACCOUNTS

PHA Policy

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.

7-III.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

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

For fully excluded income, the PHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

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

> PHA Policy
> The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.
>
> The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.L. ZERO INCOME REVIEWS [Notice PIH 2023-27]

A *zero income review* is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

PHA Policy

There is no minimum income requirement.

A family that earns at or below the following amounts has minimal income:

Family Size	Minimal income
1	$200
2	$250
3	$300
4	$350
5	$400
6	$450
7	$500
8	$550

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

The PHA may also request credit checks for adult members of families that report zero income. Where credit reports show credit accounts open and payments current, the PHA will take action to investigate the possibility of fraud or program abuse.

The PHA will also require that each family member who claims zero or minimal income status complete a zero or minimal income form monthly and provide copies of expense receipts for the 30-day period. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 12.

7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Tile IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not

otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

PHA Policy
The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

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

Dependent Deduction

See Chapter 6 for a full discussion of this deduction. The PHA will verify that:

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

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.
The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

PHA Policy
It is the responsibility of the family to provide documentation of expenses in the format required by the HACSD. Expenses that cannot be supported by clear and acceptable documentation will be disallowed. 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.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the PHA must verify that:

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

Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

PHA Policy
The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

PHA Policy
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

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense
Attendant Care

PHA Policy
Expenses for attendant care will be verified through:

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

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

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

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

PHA Policy
Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

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

PHA Policy
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 (See 6-II.E.). This documentation may be provided by the family.

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

Unreimbursed Expenses
To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

PHA Policy
The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child
To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

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

PHA Policy
The family and the care provider will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity
The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

PHA Policy

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.

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 provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The PHA will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment
The 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.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

PHA Policy
The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

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 PHA will 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.

Reasonableness of Expenses
Only reasonable child care costs can be deducted.

PHA Policy
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.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10)

<table>
<tr><td colspan="2">• 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.</td></tr>
<tr><td colspan="2">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.</td></tr>
<tr><td colspan="2">All other Noncitizens
• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</td></tr>
<tr><td>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
• “Admitted as a Refugee Pursuant to Section 207”
• “Section 208” or “Asylum”
• “Section 243(h)” or “Deportation stayed by Attorney General”
• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</td><td>• Form I-94 Arrival-Departure Record with no annotation accompanied by:
  • A final court decision granting asylum (but only if no appeal is taken);
  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
  • A court decision granting withholding of deportation; or
  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</td></tr>
<tr><td>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</td><td>Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</td></tr>
<tr><td colspan="2">• 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</td></tr>
</table>

9. **<u>HOTMA Update: Chapter 9, Leasing, Utility Services</u>**

- Description of Change: Removal of minimum temperature, minimum temperature capability, and measurement sections

F. UTILITY SERVICES

Tenants responsible for direct payment of utilities must abide by any and all regulations of the specific utility company, including regulations pertaining to advance payments of deposits.

10. **HOTMA Update: Chapter 9, Leasing, INSPECTIONS OF PUBLIC HOUSING UNITS**
    - Description of Change: Added overview, added section on HUD REAC inspections

A. INSPECTIONS OF PUBLIC HOUSING UNITS

Overview

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the PHA to inspect each public housing unit prior to move-in and at move-out. The PHA may require additional inspections, in accordance with PHA policy. This part contains the PHA's policies governing inspections by the PHA and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by the PHA (including annual self-inspections) and inspections conducted by HUD REAC.

Annual Self-Inspections

The PHA will inspect the properties and all units annually to ensure units are maintained in accordance with HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) in 24 CFR 5.703. These standards address the inspection of the site area, building systems and components, and dwelling units. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not

subsequently failed. The PHA must also maintain the results of self-inspections for three years.

If a unit does not comply with NSPIRE inspection due to housekeeping or tenant-caused damages, the resident will be given five days to correct noted items, after which a follow- up inspection will be conducted.

Residents will be issued a copy of the inspection report with required corrections.

If necessary to bring the unit into NSPIRE compliance, needed repairs will be completed by the PHA.

All inspections will include a check of all smoke alarms to ensure proper working order.

Inspection report will indicate whether required corrections are to be charged to the resident or covered by the PHA.

Damages beyond "normal wear and tear" will be billed to the tenant.

Residents who repeatedly "fail" the inspection or cause excessive damage to the unit may be in violation of their lease.

Residents who are in violation of their lease due to repeated failed inspections will be scheduled for a lease violation conference.

REAC NSPIRE Inspections

During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

The PHA will provide all residents with at least seven days' notice of a REAC NSPIRE inspection. Notice may be provided through multiple communication methods, including by posted notice on each resident's door and through email or mail where applicable.

24-Hour Corrections

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the PHA with a list of Life-Threatening and Severe deficiencies. The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, the PHA must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

PHA Policy

The PHA will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the PHA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While the PHA will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, the PHA will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, the PHA will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow the PHA access to the unit to make repairs.

Non-emergency Repairs

Under NSPIRE, the PHA must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

PHA Policy

If the PHA is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond the PHA's control (e.g., required parts or services are not available, weather conditions, etc.), the PHA will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. The PHA will also notify the family of an estimated date of completion.

The family must allow the PHA access to the unit to make repairs.

11. **HOTMA Update: Chapter 12, Recertifications, E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIRMENTS**

- Description of Change: Removed entirety of Section E. Income Changes Resulting from Welfare Program requirements as information is now found in Chapter 6.

12. **HOTMA Update: Chapter 12, Recertifications, B. ANNUAL REEXAMINATIONS**

- Description of Change: Added Section "Calculation Annual Income at Annual Reexamination" to comply with HOTMA changes

Calculating Annual Income At Annual Reexamination [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or safe harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

Step 2: The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.

- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
    - Year-end statements
    - Paycheck with year-to-date amounts
    - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income.

PHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

13. **HOTMA Update: Chapter 12, Recertifications, D. REPORTING INTERIM CHANGES**

- Description of Change: Replaced sections titled, Increases in Income to Be Reported, Increases in Income and Rent Adjustments, and Decreases in Income and Rent Adjustments with the sections below.

Changes Affecting Income Or Expenses

PHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.
If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

> **PHA Policy**
> The PHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

PHA Policy

The PHA will process an interim reexamination for any increases in unearned income of 10 percent or more in annual adjusted income. An interim reexamination will not be processed for an increase in earned income of 10 percent or more in annual adjusted income, unless the family has previously received an interim reduction during the same reexamination cycle.

The PHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

Family Reporting

PHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period.

Families must report changes in income within 14 calendar days of the date the change takes effect. The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Upon the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 14 calendar days of receiving a request

from the PHA. 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. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

14. **HOMA Update: Chapter 12, Recertifications, F., OTHER INTERIM REPORTING ISSUES**

- Description of Change: Revised section F., Other Interim Reporting Issues and included new segment Non-Interim Reexamination Transactions

F. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification.

Families with zero or minimal income must complete and return every 30 days a form indicating how they are meeting their needs, along with the expenditure receipts for the 30- day period. See also Zero Income Reviews in Chapter 7.

Non-Interim Reexamination Transactions [Notice PIH 2023-27]

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2025;
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period.

- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

PHA Errors

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 17.

15. **HOTMA Update: Chapter 13, Lease Terminations, B., TERMINATIONS BY PHA**
    - Description of Change: Added section below to address mandatory termination due to restrictions on net assets and six month cure option.

Restriction on Net Assets

The PHA must terminate assistance based on the restrictions on net assets and property ownership when required by 24 CFR 5.618. See Chapter 6 for a description of how assets are valued and exclusions to the rule.

Effective January 1, 2025, assistance may not be provided upon reexamination of family income, to any family, if:

1. The family's net assets exceed $100,000, which amount will be adjusted annually by HUD; or
2. The family has a 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. See Chapter 6-I.G. for exceptions and examples.

Enforcement

When recertifying the income of a family that is subject to the restriction on net assets the PHA may choose not to enforce the asset limitation for all families, for up to six months after the effective date of a family's

annual or interim reexamination. Families are given the opportunity to cure noncompliance with the asset limitation during this period.

PHA Policy

HACSD will provide a cure period of six months from the date of the interim or annual reexamination that determined the noncompliance.

Delay of Termination of Assistance

The PHA may delay for a period of not more than six months the initiation of termination proceedings of a family based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

PHA Policy

PHA will not provide an additional exception based on family type. All families determined to be noncompliant with the asset limitation may submit verification that it has come into compliance prior to the effective date of the delayed termination. Disposal of assets for less than the fair market value may be counted. See chapter 6 and 7 for policies on asset valuation.

16. **HOTMA Update: Chapter 17, Program Integrity, G. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

- Description of Change: Added section on De Minimis Errors

G. PHA-CAUSED ERRORS OR PROGRAM ABUSE

De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

PHA Policy
The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

17. **HOTMA Update: Glossary**

- Description of Change: Removed Section I. Terms Used in Determining Rent detailing annual income, exclusions from annual income, and adjusted income as HOTMA descriptions are now included in Chapter 6. Added or modified Section II. Glossary of Public Housing Terms listed below.

II. GLOSSARY OF PUBLIC HOUSING TERMS

Modified:

ADJUSTED INCOME. Annual income (as determined under 24 CFR 5.609), of the members of the family residing or intending to reside in the dwelling unit less allowable HUD deductions and allowances.

Removed: **ANNUAL INCOME AFTER ALLOWANCES**

Moved from Prior Section I:

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

Added:

DAY LABORER. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

Added:

EARNED INCOME. Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no

goods or services are being paid for, such as welfare, Social Security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

Modified:

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 single person, who may be:
  - An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
  - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or
- A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - An elderly family;
  - A near-elderly family;
  - A disabled family;
  - A displaced family; and
  - The remaining member of a tenant family.

Added:

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

Added:

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

Removed: **EXCEPTIONAL MEDICAL OR OTHER EXPENSES**
Removed: **EXCESS MEDICAL EXPENSES**
Removed: **HANDICAPPED ASSISTANCE EXPENSES**

Added:

HEALTH AND MEDICAL CARE EXPENSES. Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Modified:

IMPUTED ASSET INCOME. When the value of net family assets exceeds $50,000 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.

Removed: **INCOME**

Added:

INDEPENDENT CONTRACTOR. An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

Removed: **MEDICAL EXPENSES**

Replaced:

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.

Removed: **QUALIFIED FAMILY**
Added:

REAL PROPERTY. Has the same meaning as that provided under the law of the State in which the property is located.

Added:

SEASONAL WORKER. An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

Added:

UNEARNED INCOME. Any annual income, as calculated under § 5.609, that is not earned income.

GLOSSARY

I. TERMS USED IN DETERMINING RENT

ANNUAL INCOME (24 CFR 5.609)

Annual income is the anticipated total income from all sources. This includes net income derived from assets received by the family head and spouse (even if temporarily absent) and by each additional family member for the 12-month period following the effective date of initial determination or reexamination of income. It does not include income that is temporary, non-recurring, or sporadic as defined in this section, or income that is specifically excluded by other federal statute. Annual income includes:

1. The full amount before any payroll deductions, of wages and salaries, overtime pay, commission fees, tips and bonuses, and other compensation for personal services.
2. The net income from operation of a business or profession, including any withdrawal of cash or assets from the operation of the business. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining the net income from a business. An allowance for the straight-line depreciation of assets used in a business or profession may be deducted as provided in IRS regulations. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the business.
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for the straight-line depreciation of real or personal property is permitted. Withdrawals of cash or assets will not be considered income when used to reimburse the family for cash or assets invested in the property.
4. When the family has net family assets in excess of $5,000, Annual Income shall include the greater of the actual income derived from all net family assets, or a percentage of the value of such assets based on the current passbook savings rate as determined by the PHA.
5. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.

NOTE: Treatment of lump sum payments for delayed or deferred periodic payment of social security or SSI benefits is dealt with later in this section.

6. Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation, and severance pay.

7. All welfare assistance payments received by or on behalf of any family member. (24 CFR 913.106(b)(6) contains rules applicable to "as-paid" States).
8. Periodic and determinable allowances, such as alimony and childcare support payments, and regular cash contributions or gifts received from persons not residing in the dwelling.
9. All regular pay, special pay and allowances of a member of the Armed Forces (except special pay to a family member serving the Armed Forces who is exposed to hostile fire).

Income Validation Tool (IVT)

Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH), and the Social Security Administration (SSA) data sharing agreements.

EXCLUSIONS FROM ANNUAL INCOME (24 CFR 5.609)

Annual income does not include the following:

- Income from the employment of children (including foster children) under the age of 18 years.
- Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the resident family, who are unable to live alone). Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2008-40].
- Lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation) capital gains, and settlement for personal property losses.
- Amounts received by the family that are specifically for, or in reimbursement of the cost of medical expenses for any family member.
- Income of a live-in aide, provided the person meets the definition of a live-in aide.
- The full amount of student financial assistance paid directly to the student or the educational institution.
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- Amounts received under HUD funded training programs (e.g., Step-up program); excludes stipends, wages, transportation payments and childcare vouchers for the duration of the training.

- Amounts received by a person with disabilities that are disregarded for a limited time for purposes of Supplemental Security Income and benefits that are set aside for use under a Plan to Attain Self Sufficiency (PASS).
- Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred for items such as special equipment, clothing, transportation and childcare, to allow participation in a specific program.
- Amount received as a Resident services stipend. A modest amount (not to exceed
- $200 per month) received by a public housing resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in public housing. Such services may include but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as the resident member of the PHA governing Board. No resident may receive more than one such stipend during the same period of time.
- Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of family members 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.
- Temporary, non-recurring, or sporadic income (including gifts). Medicare prescription drug subsidy.
- Reparation payments paid by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (For all initial determinations and reexaminations of income on or after April 23, 1993.)
- Earnings in excess of $480 for each full-time student 18 years old or older, (excluding the head of household and spouse).
- Adoption assistance payments in excess of $480 per adopted child.
- The earnings and benefits to any resident resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988 (42 U.S.C. 1437 et seq.), or any comparable Federal, State or local law during the exclusion period. For purposes of this paragraph the following definitions apply:

    1) Comparable Federal, State or local law means a program providing employment training and supportive services that: (1) is authorized by a Federal, State or local law; (2) is funded by the Federal, State or local government; (3) is operated or administered by a public agency; and (4) has as its objective to assist participants in acquiring job skills.

    2) Exclusion period means the period during which the resident participates in a program as described in this section plus 18 months from the date the resident begins the first job acquired by the resident

after completion of such program that is not funded by public housing assistance under the U.S. Housing Act of 1937. If the resident is terminated from employment without good cause, the exclusion period shall end.

3) Earnings and benefits means the incremental earnings and benefits resulting from a qualifying employment-training program or subsequent job.

- Deferred periodic payments from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts. 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 [FR Notice 11/24/08].
- 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.
- Amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.
- Amounts specifically excluded by any other Federal Statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937. (A notice will be published by HUD in the Federal Register identifying the benefits that qualify for this exclusion.

The following benefits are excluded by other Federal Statute as of August 3, 1933:

- The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977.
- Payments to volunteers under the Domestic Volunteer Service Act of 1973; examples of programs under this Act include but are not limited to:
    - The Retired Senior Volunteer Program (RSVP)
    - Foster Grandparent Program (FGP)
    - Senior Companion Program (SCP)
    - Older American Committee Service Program
- National Volunteer Antipoverty Programs such as:
    - VISTA
    - Peace Corps
    - Service-Learning Program
    - Special Volunteer Programs

- Small Business Administration Programs such as:
    - National Volunteer Program to Assist Small Businesses Service Corps of Retired Executives
- Payments received under the Alaska Native Claims Settlement Act. [43 USC 1626 (a)]
- Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes. [25 USC 459e]
- Payments or allowances made under the Department of HHS' Low Income Home Energy Assistance Program. [42 USC 8624 (f)]
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 USC 1552 (b)
- Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540).
- The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 USC. 1407- 08), or from funds held in trust for an Indian Tribe by the Secretary of Interior.
- Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs. [20 USC 1087] Examples: Basic Educational Opportunity Grants (Pell Grants), Supplemental Opportunity Grants, State Student Incentive Grants, College- Work Study, and Byrd Scholarships.
- Payments received under programs funded under Title V of the Older Americans Act of 1965 [42 USC 3056 (f)] Examples include Senior Community Services Employment Program, National Caucus Center on the Black Aged, National Urban League; Association National Pro Personas Mayores, National Council on Aging, American Association of Retired Persons, National Council on Senior Citizens, and Green Thumb.
- Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established in the In-Re Orange Product Liability litigation.
- The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs of incurred in such care) under the Childcare and Development Block Grant Act of 1990. (42 USC 9858q)
- Earned income tax credit refund payments received on or after January 1, 1991. (26 USC 32)(j).
- Living allowances under Americorps Program (Nelson Diaz Memo to George Latimer 11/15/94)

ADJUSTED INCOME

Annual income, less allowable HUD deductions.

Note: Under the Continuing Resolution, PHAs are permitted to adopt other adjustments to earned income for residents of Public Housing but must absorb any resulting loss in rental income.

All Families are eligible for the following:

Childcare Expenses: A deduction of amounts anticipated to be paid by the family for the care of children under 13 years of age for the period for which the Annual Income is computed. Childcare expenses are only allowable when such care is necessary to enable a family member to be gainfully employed or to further his/her education. Amounts deducted must be unreimbursed expenses and shall not exceed:

(1) the amount of income earned by the family member released to work, or (2) an amount determined to be reasonable by the PHA when the expense is incurred to permit education.

Dependent Deduction. An exemption of $480 for each member of the family residing in the household (other than the head or spouse, live-in aide, foster child) who is under 18 years of age or who is 18 years of age or older and disabled, handicapped, or a full-time student.

Handicapped Expenses. A deduction of unreimbursed amounts paid for attendant care or auxiliary apparatus expenses for handicapped family members where such expenses are necessary to permit a family member(s), including the handicapped/disabled member to be employed. In no event may the amount of the deduction exceed the employment income earned by the family member(s) freed to work.

Equipment and auxiliary apparatus may include but are not limited to wheelchairs, lifts, reading devices for visually handicapped, and equipment added to cars and vans to permit use by the handicapped or disabled family member.

For non-elderly families and elderly families without medical expense: The amount of the deduction equals the cost of all unreimbursed expenses for handicapped care and equipment, less three percent of Annual Income, provided the amount so calculated does not exceed the employment income earned.

For elderly families with medical expenses: The amount of the deduction equals the cost of all unreimbursed expenses for handicapped care and equipment, less three percent of Annual Income, (provided the amount does not exceed earnings) plus medical expenses as defined below.

For Elderly and Disabled Families Only:

Medical Expenses: A deduction of unreimbursed medical expenses, including insurance premiums anticipated for the period for which Annual Income is computed. Medical expenses include but are not limited to: services of physicians and other health care professionals, services of health care facilities; insurance premiums, including the cost of Medicare), prescription and non-prescription medicines, transportation to and from treatment, dental expenses, eyeglasses, hearing aids and batteries, attendant care (unrelated to employment of family members), and payments on accumulated medical bills. To be considered by the PHA for the purpose of determining a deduction from the income, the expenses claimed must be verifiable.

For elderly families without handicapped expenses: The amount of the deduction shall equal total medical expenses, less 3% of annual income.

For elderly families with both handicapped and medical expenses: The amount of handicapped assistance is calculated first, and then medical expenses are added.

Elderly/Disabled Household Exemption: An exemption of $400 per household.

II. GLOSSARY OF PUBLIC HOUSING TERMS

ACCESSIBLE. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

ACCESSIBLE DWELLING UNITS. When used with respect to the design, construction or alteration of an individual dwelling unit, means that the unit is located on an accessible route, and when designed, constructed, or altered, can be approached, entered, and used by individuals with physical handicaps. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 & 40, (the Uniform Federal Accessibility Standards) is "accessible" within the meaning of this paragraph.

ACCESSIBLE FACILITY. All or any portion of a facility other than an individual dwelling unit used by individuals with physical handicaps.

ACCESSIBLE ROUTE. For persons with a mobility impairment, a continuous, unobstructed path that complies with space and reach requirements of the Uniform Federal Accessibility Standards (UFAC). For persons with hearing or vision impairments, the route need not comply with requirements specific to mobility.

ADAPTABILITY. Ability to change certain elements in a dwelling unit to accommodate the needs of handicapped and non-handicapped persons; or ability to meet the needs of persons with different types and degrees of disability.

ADMISSION. Admission to the program is the effective date of the lease. The point at which a family becomes a resident.

AFFILIATED INDIVIDUAL. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the 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.

ALLOCATION PLAN. The plan submitted by the PHA and approved by HUD under which the PHA is permitted to designate a building, or portion of a building, for occupancy by elderly families or disabled families.

ANNUAL CONTRIBUTION 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 AFTER ALLOWANCES. The Annual Income (described above), less the HUD-approved allowances.

APPLICANT. (or applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

"**AS-PAID" STATES**. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

ASSETS. (See Net Family Assets.)

AUXILIARY AIDS. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of programs and activities.

BIFURCATE. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

CEILING RENT. An amount that reflects the reasonable market value of the housing unit, but not less than the sum of the monthly per-unit operating costs and a deposit to a replacement reserve. The family pays the lower of the ceiling rent or the formula tenant rent.

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.

COVERED FAMILIES. The statutory term "covered families" designates the universe of families who are required to participate in a welfare agency economic self-sufficiency program and may, therefore, be the subject of a welfare benefit sanction for noncompliance with this obligation. "Covered families" means families who receive welfare assistance or other public assistance benefits from a State or other public 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 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 household (excluding foster children and foster adults) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person or is a full-time student 18 years of age or older.

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.

DESIGNATED FAMILY. The category of family for whom the PHA elects to designate a project (e.g., elderly family in a project designated for elderly families) in accordance with the 1992 housing Act. (24 CFR 945.105).

DISABILITY ASSISTANCE EXPENSE. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and or auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family, nor reimbursed by an outside source.

DISABLED FAMILY. A family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

DISABLED PERSON. See Persons 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. Term means:

- Drug-trafficking; or
- Illegal use, or possession for personal use of a controlled substance (including Medical and Recreational Marijuana) (as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802)); or
- 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. Economic self-sufficiency programs can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, any other program necessary to ready a participant to work (such as: substance abuse or mental health treatment. Economic self-sufficiency program includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). See the definition of work activities at Sec. 5.603(c). The new definition of the term "economic self-sufficiency program" is used in the following regulatory provisions, pursuant to the Public Housing Reform Act: family income includes welfare benefits reduced because of family failure to comply with welfare agency requirements to participate in an economic self-sufficiency program; and the requirement for public housing residents to participate in an economic self-sufficiency program or other eligible activities.

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.

(ii)

ELDERLY FAMILY. A family whose head, spouse, co-head or sole member is at least 62 years, or two or more persons who are at least 62 years of age or a disabled person. It may include two or more elderly, disabled persons living together or one or more such persons living with one or more live-in aides.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBLE FAMILY (Family). A family is defined by the PHA in the Admission and Continued Occupancy Plan.

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).)

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly families only in excess of three percent of Annual Income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, as determined by HUD, whichever number is higher, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

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. The applicant must qualify as a family as defined by the PHA.

FAMILY OF VETERAN OR SERVICE PERSON. A family is a "family of veteran or serviceperson" when:

1. The veteran or serviceperson (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household and was a family member at the time of death.
2. The veteran or serviceperson, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM). The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

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 percent of the applicable Fair Market Rent (FMR), set at no less than 80 percent of the small area fair market rent (SAFMR), or 80 percent of the unadjusted rent and adjusted by the amount of the utility allowance, if any.

FOSTER CHILD CARE PAYMENT. 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.

HANDICAPPED ASSISTANCE EXPENSES. Anticipated costs for care attendants and auxiliary apparatus for handicapped or disabled family members which enable a family member (including the handicapped family member) to work.

HANDICAPPED PERSON. [See Persons with Disabilities]

HEAD OF HOUSEHOLD. The person who assumes legal and financial responsibility for the household and is listed on the application as head.

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. A state, country, municipality or other governmental entity or public body authorized to administer the program. The term "PHA" includes an Indian housing authority (IHA). ("PHA" and "IHA" mean the same thing.)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. The Act in which the U.S. Housing Act of 1937 was recodified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PLAN. A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD. A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HUD. The Department of Housing and Urban Development or its designee.

HUD REQUIREMENTS. HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations, Federal Register notices, or other binding program directives.

HUMAN TRAFFICKING. A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).

Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

HURRA. The Housing and Urban/Rural Recovery Act of 1983 legislation that resulted in most of the 1984 HUD Regulation changes to the definition of income, allowances, and rent calculations.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during the two years preceding examination or reexamination.

IMPUTED ASSET INCOME. Passbook rate times the total cash value of assets, when assets exceed $5,000.

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. This amount is included in family annual income and, therefore, reflected in the family rental contribution based on this income.

INCOME. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

INCOME-BASED RENT. The tenant rent paid to the PHA that is based on family income and the PHA rental policies. The PHA uses a percentage of family income or some other reasonable system to set income-based rents. The PHA has broad flexibility in deciding how to set income-based rent for its tenants. However, the income-based tenant rent plus the PHA's allowance for tenant paid utilities may not exceed the "total tenant payment" as determined by a statutory formula.

INCOME INFORMATION means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources.
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law.
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received.
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration

INCOME FOR ELIGIBILITY. Annual Income.

INCOME TARGETING. The HUD admissions requirement that PHAs not admit less than the number required by law of families whose income does not exceed 30% of the area median income in a fiscal year.

INCOME VALIDATION TOOL (IVT) Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH), and the Social Security Administration (SSA) data sharing agreements.

INDIAN. Any person recognized as an Indian or Alaska Native by an Indian Tribe, the federal government, or any State.

INDIAN HOUSING AUTHORITY (IHA). A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and

221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

INVOLUNTARILY DISPLACED PERSON. Involuntarily Displaced Applicants are applicants who meet the HUD definition for the local preference, formerly known as a federal preference.

JURISDICTION. The area in which the PHA has authority under state and local law to administer the program.

LANDLORD. Either the legal owner of the property, or the owner's representative or managing agent as designated by the owner.

LEASE. A written agreement between the PHA and a tenant family for the leasing of 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 an elderly person or disabled person and who: Is determined to be essential to the care and well-being of the person.

Is not obligated for the support of the person. Would not be living in the unit except to provide necessary supportive services.

LOCAL PREFERENCE. A preference used by the PHA to select among applicant families without regard to their date and time of application.

LOW-INCOME FAMILY. This definition replaces a previous statutory reference. Generally, "low-income" designates a family whose income does not exceed 80 percent of area median income, with certain adjustments.

MARKET RENT. The rent HUD authorizes the owner of FHA insured/subsidized multi- family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured

multi-family project in which a portion of the total units receive project- based rental assistance under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MEDICAL EXPENSES. Those total medical expenses anticipated during the period for which Annual Income is computed, and which are not covered by insurance. (Only Elderly Families qualify) The allowances are applied when medical expenses exceed three percent of Annual Income.

MINIMUM RENT. An amount established by the PHA of zero to $50.

MINOR. A member of the family household (excluding foster children), other than the family head or spouse, who is under 18 years of age.

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances.

MONTHLY INCOME. 1/12 of the Annual Income before allowances.

NEAR-ELDERLY FAMILY. A family whose head, spouse, co-head or sole member is at least 50, but less than 62 years of age. The term includes two or more near-elderly persons living together, and one or more such persons living with one or more live-in aides.

NET FAMILY ASSETS. The net cash value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property, such as furniture and automobiles, is excluded from the definition.

NON-PUBLIC HOUSING OVER-INCOME FAMILY. A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

OCCUPANCY STANDARDS. [Now referred to as Subsidy Standards] Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OVER-INCOME FAMILY. A family whose income exceeds the over-income limit.

OVER-INCOME LIMIT. The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4.

PARTICIPANT. A family that has been admitted to the PHA program, and is currently assisted in the program.

PHA PLAN. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PERSONS WITH DISABILITIES:

1. A person who has a disability, as defined in 42 U. S. C. 423, and is determined, under HUD regulations, to have a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.
2. A person who has a developmental disability as defined in 42 U.S.C. 6001.
3. An "individual with handicaps", as defined in 24 CFR 8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities.
4. Does not exclude persons who have AIDS, or conditions arising from AIDS.
5. Does not include a person whose disability is based solely on any drug or alcohol dependence (for low income housing eligibility purposes).
6. A person with a physical or mental impairment or medical condition that limits one or more major life activity, or who has a record of such impairment or condition or is regarded as having such impairment or condition.

PREMISES. The building or complex in which the dwelling unit is located including common areas and grounds.

PREVIOUSLY UNEMPLOYED. Includes 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 authorized to administer the programs. The term "PHA" includes an Indian housing authority (IHA). ("PHA" and "IHA" mean the same thing.)

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; or increased earnings by a family member during participation in any economic self-sufficiency or on the job training program; or new employment or increased earnings of a family member, during or within 6 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 TANF agency and Welfare to Work programs. TANF includes income, benefits and services, such as one time payments, wage subsidies and transportation assistance, as long as the total amount over a six-month period is at least $500.

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998. The Act which amended the U.S. Housing Act of 1937, and is known as the Public Housing Reform Bill. The Act is directed at revitalizing and improving HUD's Public Housing and Section 8 assistance programs.

REASONABLE ACCOMODATION. 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.

REASONABLE MODIFICATION. A structural change made to the unit or common areas in order to afford a person with a disability full enjoyment of the premises.

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 no interim changes are reported by the family.

REMAINING MEMBER OF TENANT FAMILY. Person left in assisted housing after other family members have left and become unassisted.

RESIDENCY PREFERENCE. A local preference for admission of persons who reside in a specified geographic area, including families with a member who works or has been hired to work in the area.

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.

SECTION 8. Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

SECURITY DEPOSIT. A dollar amount which can be collected from the family by the owner upon termination of the lease and applied to unpaid rent, damages or other amounts owed to the owner under the lease, according to State or local law.

SERVICEPERSON. A person in the active military or naval service (including the active reserve) of the United States.

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 or bisexuality.

SINGLE PERSON. A person living alone or intending to live alone.

SMOKING. means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoking” includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

SPECIFIED WELFARE BENEFIT REDUCTION. Those reductions of welfare agency benefits (for a covered family) that may not result in a reduction of the family rental contribution. "Specified welfare benefit reduction" means 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.

SPOUSE. The marriage partner of the head of the 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.

SUBSIDIZED PROJECT. A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

- Below-market interest rates pursuant to Section 221(d)(3) and (5), or interest reduction payments pursuant to Section 236 of the National Housing Act; or
- Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or
- Direct loans pursuant to Section 202 of the Housing Act of 1959; or
- Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937, prior to amendment by the Housing and Community Development Act of 1974;
- Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act, unless the project is owned by a Public Housing Agency;
- A Public Housing Project.

TENANT. (Synonymous with resident) The person or persons 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.

UNIFORM FEDERAL ACCESSIBILITY STANDARDS (UFAS). HUD's Section 504 regulation references sections 3 through 8 of UFAS for purposes of compliance with Section 504.

UTILITIES. Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE. The PHA's estimate of the average monthly utility bills for an energy-conscious household. If all utilities are included in the rent, there is no utility allowance. The utility allowance will vary by unit size and type of utilities.

UTILITY REIMBURSEMENT PAYMENT. The amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

VERY LARGE LOWER-INCOME FAMILY. Prior to the change in the 1982 regulations, this meant a lower-income family which included eight or more minors. (Term no longer used)

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 the project to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

VIOLENT CRIMINAL ACTIVITY. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

WAITING LIST. A list of families organized according to HUD regulations and PHA policy who are waiting for subsidy to become available.

WELFARE ASSISTANCE. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103(b)), welfare assistance includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment related services that to not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretake

III. GLOSSARY OF TERMS USED IN THE NON-CITIZEN'S RULE

CHILD. A member of the family other than the family head or spouse who is under 18 years of age.

CITIZEN. A citizen or national of the United States.

EVIDENCE. Evidence of citizenship or eligible immigration status means the documents which must be submitted to evidence citizenship or eligible immigration status.

PHA. A housing authority- either a public housing agency or an Indian housing authority or both.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

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.

NONCITIZEN. A person who is neither a citizen nor national of the United States.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

SECTION 214. Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214.

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co- heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.

VIOLENCE AGAINST WOMEN ACT (VAWA) Signed into law by President Bush in

January 2006, the law places restrictions on denial, eviction, or termination based on violations that are directly related to a family member being the victim of domestic violence, dating violence, sexual assault, or stalking, unless the PHA can demonstrate an actual or imminent threat to other tenants or those employed at or providing service to the property.

HOUSING AUTHORITY COUNTY OF SAN DIEGO
PUBLIC HOUSING LEASE

NAME OF RESIDENT	**BEDROOMS**	**NO. OF PERSONS**

ADDRESS OF HOUSING UNIT	**UNIT NO.**	**LEASE EFFECTIVE DATE**	**MONTHLY RENT**

1. The Housing Authority of the County of San Diego (HACSD) does hereby lease the dwelling unit described above to the following named Resident(s) each of whom has executed this Lease:

Resident: _____ Resident: _____

Resident: _____ Resident: _____

This agreement is between HACSD and each named Resident individually and severally. The term "Resident" shall apply to each named party. The named Resident(s) is/are jointly and severally responsible for performance of his/her/their obligations under this Lease including payment of rent.

2. **TERM OF LEASE:** This Lease shall be for a term of one (1) calendar year, and shall be automatically renewed for successive terms of one (1) calendar year, unless HACSD gives notice of its election to not renew the lease because of Resident's failure to comply with community service and self-sufficiency requirements [Paragraph 18(U)], or unless terminated by either party as herein provided.

3. **FAMILY COMPOSITION**: Resident agrees that the persons identified below are the only members of his/her household who will and must reside at the leased premises. No other person shall use this address as a residence or mailing address:

NAMES OF HOUSEHOLD MEMBERS

The family must notify the HACSD in writing within 14 days of the birth, adoption, or court awarded custody of a child. The family must request prior HACSD approval to add any other family member or person as an occupant of the unit. With the prior consent of the HACSD, a foster child or live-in aide may reside in the unit in accordance with the HACSD's policies.

4. PAYMENTS DUE UNDER THE LEASE:

A. **RENT**: Rent is based on information provided by Resident regarding Resident's family composition and income sources. All information must be provided prior to the signing of this Lease, upon changes, and at annual recertification, and will be verified by HACSD. False statements are punishable under Federal Law Section 1001 of Title 18 of the U.S. Code. (Resident has the initial and annual option of a flat rent (market value) or income-based calculated rent) The family has chosen an [ ] income-based rent [ ] flat rent.

RESIDENT RENT: _____

Prorated rent in the amount of $ _____ to cover the period from _____ to _____ is due at the time this Lease is signed. Thereafter, monthly rent is due on the first day of each month. Checks or money orders are to be made payable to the County of San Diego or its designated Management agent. Please refer to the attached House Rules for more information.

B. **SECURITY DEPOSIT**: Resident's security deposit will be $_, due and payable at the time Resident signs this Lease. HACSD will deduct from the security deposit at the termination of the Lease, those amounts necessary to (a) cure Resident's defaults in payment of rent; (b) clean or repair, except for normal wear and tear, any damages to the premises caused by guests or members of Resident's household; (c) restore, replace, or return personal property or appurtenances, except for normal wear and tear. The balance will be refunded in accordance with California State Law.

C. **MAINTENANCE CHARGES**: Charges shall be assessed for maintenance to repair damage caused by Resident, members of the household, or guests, in excess of ordinary wear and tear. Such charges shall be due and collectible fourteen (14) days after HACSD or its designee gives Resident written notice of charge. A schedule of charges shall be posted at HACSD area offices and provided in the Resident orientation package; however, work completed by an independent contractor will be charged according to the amount

billed to the HACSD. Charges assessed for catastrophic damage incurred by a resident, member of the household, or guest shall be limited to the amount of HACSD insurance deductible at the time of occurrence (if HACSD's insurance policy covers the loss), or $5,000, whichever is less.

D. **LATE CHARGES**: Rent is delinquent if not received by close of business on the 5th of the month and a $10 late charge will be added to your account. This provision does not create a "grace period" for payment of rental obligations under the terms of this Lease. The late charge shall be due and collectible fourteen (14) days after the HACSD or its designee gives the Resident written notice of charge.

E. **ATTORNEY, COURT AND EVICTION COST**: Resident will be charged a fee to cover costs and/or reasonable attorney's fees the court may award whenever HACSD incurs costs and attorney fees in connection with legal proceedings in which the Resident does not prevail in the court action. Awarded attorney's fees shall not exceed $500. In the event of an eviction, the Resident gives HACSD permission to remove from the unit and store any personal property left in the unit and to dispose of such property as prescribed by law and agrees that the Resident will be responsible for the actual costs for removing any personal property from the unit, and any other costs directly associated with the eviction.

F. **CREDIT REPORTING AND CREDIT CHECKING**: Resident is notified that a negative credit report reflecting on Resident's credit record may be submitted to credit reporting agencies if Resident fails to fulfill the terms of Resident's credit obligations. If Resident fails to honor all obligations to the HACSD, Resident authorizes the HACSD and HACSD's agents' permission to run credit reports on Resident for debt collection purposes, at any time during or after the tenancy, until the debt has been paid.

5. **CHECK REFUSAL**: The HACSD reserves the right to refuse payment by personal check if the Resident establishes a history of one (1) check payment returned by the bank for nonsufficient funds. There will be a charge of $25.00 for the first check returned by your bank and $35.00 for any subsequent returned check.

6. **UTILITIES, SERVICES AND EQUIPMENT**: "R" indicates the utilities/appliances are paid for or provided by the Resident and an "O" indicates the utilities/appliances are paid for or provided by the HACSD. (Circle if utilities are gas or electric).

_____Trash Collection _____ Electricity _____ Gas _____ Water

_____ Gas/Electric Water Heating _____ Gas/ Electric Heating ____ Air Conditioner _____ Sewer

Equipment Provided by HACSD: _____Gas/Electric Stove _____Refrigerator

7. **REDETERMINATION OF RENT, DWELLING SIZE AND ELIGIBILITY**: Resident may choose annually between paying an income-based rent or a flat rent.). (Section 3(a) USHA. If the Resident chooses to pay an income-based rent, the HACSD shall re-examine the income and composition of all "income-based" households at least once every twelve (12) months and determine whether the Resident's unit size is still appropriate for the premises described in this lease and to determine whether adjustments in the rent, paid by the Resident, is required by HUD regulations. Residents choosing to pay a "flat rent" shall be re-examined every thirty-six (36) months. Resident agrees to furnish accurate information to HACSD as to identity, income, and employment of all persons residing upon leased premises. The Resident shall give the HACSD authorization to verify all information. After consultation with the Resident and upon verification of the information, HACSD shall make appropriate adjustments in the Total Resident Payment and Resident Rent in accordance with HUD

regulations. The Resident must comply with provisions in Paragraph 18(C) regarding interim reporting of changes in family composition.

When the HACSD predetermines the amount of rent payable by the Resident, not including determination of the HACSD's schedule of Utility Allowances for families in the HACSD's public housing program, or determines that the Resident must transfer to another unit based on family composition, the HACSD shall notify the Resident that the Resident may ask for an explanation stating the specific grounds of the HACSD determination, and that if the Resident does not agree with the determination, the Resident shall have the right to request a hearing under the HACSD's grievance procedure.

The monthly Total Resident Payment (TTP) cannot be less than the minimum of ZERO dollars ($0).

8. HACSD TREATMENT OF INCOME CHANGES RESULTING FROM WELFARE PROGRAM

REQUIREMENTS: If Resident has a reduction in the family's welfare assistance specifically because of fraud or failure to participate in an economic Self-Sufficiency program or to comply with a work activities requirement the HACSD must not reduce the annual income used to calculate rent of a family residing in public housing because of the welfare assistance reduction. (Section 12, USHA) A reduction in benefits as a result of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement.

9. MISREPRESENTATION: Where the Resident, intentionally or by mistake, has misrepresented or failed to submit to the HACSD any facts required for the determination of rent, the HACSD may immediately charge and collect as rent the difference between the rent actually paid and the rent which would have been due had the proper information been submitted by the Resident. The HACSD shall also have available in such event, at its option, the remedy of termination as provided in Paragraph 20(B) of this Lease. The revised rent shall be made effective immediately and retroactive to the date of the change. If this Lease is an extension of occupancy by the Resident under prior lease or leases with the HACSD, such amount due under the prior lease or leases may be charged and collected as if the same had occurred hereunder.

10. RESIDENT'S RIGHT TO USE AND OCCUPANCY: The Resident shall have the right to exclusive use and occupancy of the leased premises by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests. The term "Guest" means any person invited on the property that is the subject of the lease, this includes persons who come on the premises without an invitation, but whose presence is not opposed by the Resident.

A. Guests cannot occupy the leased unit for more than one two-week (14-day period) in a year. If any visit will extend beyond two weeks, the Resident must notify the HACSD in writing, in advance of the two-week period, stating the reasons for the extended visit. Upon consideration, the HACSD may authorize, but is not obligated to authorize, an extension of time beyond the two-week period. Any such extension must be in writing, signed by an employee and/or agent of the HACSD.

B. Unless otherwise provided for by State law, members of the household, with the written consent of the HACSD, may engage in legal profit making activities in the dwelling unit, where the HACSD determines that such activities are incidental to primary use of the unit for residence by members of the household.

1. The HACSD will disapprove profit making activities involving storage of toxic, flammable or poisonous chemicals on the premises, in violation of State, and local health and safety codes;

2. If they attract large amounts of traffic, or if they generate unacceptable amounts of noise or odors, or create a nuisance.

C. Decision to approve or disapprove will be made on a case-by-case basis.

11. INSPECTIONS:

A. The HACSD and the Resident, or the Resident's representative shall inspect the premises prior to occupancy by the Resident. The HACSD will furnish the Resident with a written statement of the condition of the premises, the dwelling unit, and the equipment provided with the unit. The HACSD and the Resident should sign the statement, and a copy shall be retained by the HACSD in the Resident's folder.

B. At the time the Resident vacates the unit; the HACSD shall inspect the unit and furnish the Resident with a written statement of any charges to be made in accordance with Paragraph 18(Q). The HACSD shall notify the Resident of the inspection, and the Resident and/or Resident's representative may join in such inspection, unless the Resident vacates the premises without prior notice to the HACSD.

C. Resident understands that they may request a pre-move out inspection of the apartment and be present at that inspection. If requested, the inspection should be scheduled with the Manager two weeks before the anticipated move out date. (CA Civil Code 1950.5)

D. An inspection will be conducted each year at recertification. Additional inspections may be conducted to correct deficiencies and/or to meet U.S. Department of Housing and Urban Development regulations. Failure to pass inspections may result in termination of this Lease.

12. SMOKE ALARM: Disconnection of the smoke alarm is not only a safety hazard but is a violation of the Lease Agreement Paragraph 18 and a misdemeanor of California State Law that became effective January 1, 1987. It is Resident's responsibility to notify Landlord if Resident's smoke alarm is not functioning properly. Failure to do so or disconnecting the smoke alarm may result in Resident's liability for damage due to fire and may result in termination of tenancy.

13. DEFECTS HAZARDOUS TO LIFE AND HEALTH:

A. Resident shall immediately report damages to the HACSD.

B. The HACSD shall be responsible for repair of the unit within a reasonable time; provided, that if the damage was caused by Resident, Resident's household, or guests, the reasonable cost of the repairs shall be charged to Resident.

C. The HACSD shall offer standard alternative housing, if available, in circumstances where necessary repairs cannot be made within a reasonable time, but only when HACSD is required by law to do so.

D. Provisions shall be made for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling in the event that repairs are not made in accordance with paragraph (B) of this section or alternative housing not provided according to paragraph (C) of this Section, except that no abatement of rent

shall occur if the Resident rejects the alternative housing or if the damage was caused by the Resident, Resident's household, or guests.

14. **ENTRY OF PREMISES DURING TENANCY**: HACSD will have the right to enter the premises as allowed by law which includes entry in case of emergency, to make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, to test smoke detectors, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors, to make an inspection pursuant to subdivision (f) of Section 1950.5, when the Resident has abandoned or surrendered the premises and pursuant to court order. HACSD will serve Resident with written notice before entry unless:

    - Entry is due to an emergency, surrender or abandonment of the unit, or
    - Resident and Landlord agree orally to an entry to make agreed repairs or supply agreed services at an approximate day and time within one week of the oral agreement, or
    - Resident is present and consents to entry at the time of entry, or
    - To exhibit the unit to prospective or actual purchasers of the property, provided that Landlord has notified Resident in writing within 120 days of the oral notice that the property is for sale and that Resident may be contacted to allow for an inspection.

    Management will leave a written statement in the housing unit giving the date, time and purpose of entry before leaving the premises.

15. **PETS**: There will be no pets allowed unless specifically approved for residents residing on designated housing sites in accordance with HUD regulations. If approved, an addendum will be attached to this Lease identifying the type and size of the pet and the amount of additional security deposit required. Assistive animals for persons with disabilities are not considered to be "pets," but do require advance written approval of the HACSD.

16. **DISABILITY MODIFICATIONS AND/OR ACCOMMODATIONS:** A person with a disability shall for all purposes under this Lease be provided reasonable modifications to the unit or common areas and/or reasonable accommodation to the extent necessary to provide the person with full and equal opportunity to use and occupy the dwelling unit. You may, at any time during your residency, request reasonable modifications to the unit or common areas and/or reasonable accommodation of a household member with a disability, including reasonable accommodation so that the Resident can meet lease requirements or other requirements of residency.

17. **OBLIGATIONS OF THE HACSD**: Shall be obligated, other than for circumstances beyond its control, as follows:

    A. To maintain the premises and the project in a decent, safe, and sanitary condition.

    B. To comply with requirements of applicable building codes, housing code, and HUD regulations materially affecting health and safety.

    C. To make necessary repairs to the premises within a reasonable time period.

    D. To keep project buildings, facilities, and common areas in a clean and safe condition not otherwise assigned to the Resident for maintenance and upkeep.

    E. To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators supplied or required to be supplied by the HACSD.

    F. To provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of an individual Resident household) for the deposit of ashes, garbage, rubbish, and other waste removed from the premises, by the Resident, in accordance with paragraph 18(K) of this Lease.

G. To supply running water and reasonable amounts of hot water and reasonable amounts of heat at appropriate times of the year.

H. To properly notify the Resident of the specific grounds for any proposed adverse action by the HACSD and the Resident's right to request a hearing. (Such adverse action includes, but is not limited to, a proposed lease termination, transfer of the Resident to another unit, or imposition of charges for maintenance and repair.)

18. OBLIGATIONS OF THE RESIDENT: Resident hereby agrees:

A. To provide complete and accurate information to the HACSD.

B. To notify the HACSD at every re-certification of any change in income, income sources, or family composition.

C. To notify the HACSD of any change in family composition and corresponding change of income, within 14 calendar days. To notify the HACSD of any change (increase or decrease) of income, within 14 calendar days, whether or not associated with a change in household composition.

D. To timely make all rental payments. Rent is due on the 1st day of the month; rent is late on the 6th. Late payment of rent is a violation of the Lease. Landlord may decline to renew Resident's Lease if Resident's payment is late four times within any 12 month period.

E. To comply with mandatory transfer requirements, where the household is over housed or under housed, or the dwelling unit requires substantial rehabilitation, or HACSD has administrative need for the unit, and upon appropriate notice by the HACSD that an appropriate dwelling unit is available.

F. To use the premises solely as a private dwelling for the Resident and the Resident's household except for legal profit making activities with the prior consent of the HACSD as set out in Paragraph 10 of this Lease, and not to use or permit its use for any other purpose.

G. To abide by necessary regulations issued by the HACSD for the benefit and well-being of the housing project and the Residents. The regulations shall be posted in the HACSD office and are incorporated by reference in this lease. Violation of such regulations constitutes a violation of this lease, provided; however, that any such regulations shall be consistent with the terms of this lease. In the event of a conflict between any such regulations and any provision of this lease, the provision of the lease shall govern.

H. Not to assign the lease or to sublease or transfer possession of the premises.

I. Not to provide accommodations for boarders or lodgers.

J. To keep the premises, adjacent grounds and other such areas as may be assigned to your use in a clean, orderly, and safe condition.

K. To dispose of all, garbage, rubbish, and other waste from the unit in a safe manner.

L. To use only in a reasonable manner, as intended, all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances, including elevators supplied or required to be supplied by the HACSD. No clothes washers or dryers may be installed without prior written permission from HACSD. Gas, electric, water and sewer services must be connected during residency.

M. To refrain from, and to cause members of the household and guests to refrain from destroying, defacing, damaging or removing any part of the premises or project.

N. To maintain conduct, and cause household members or guests who are on the premises (whether or not such persons' presence on the premises is then known by you or you are aware of the conduct of such person(s)), to conduct themselves in a manner which is legal, orderly, and which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe, and sanitary condition.

O. To assure that members of the household, or guests, shall not engage in:

i. Any violent criminal activity, or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of the HACSD's premises by other residents, employees, agent and/or contractor for the HACSD, including, on-site property management staff responsible for managing the premises.

ii. Any drug-related criminal activity on or off such premises: The term drug-related criminal activity means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (including Medical Marijuana) (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

iii. Any abuse (or pattern of abuse) of alcohol that the HACSD determines affects the health, safety, or right to peaceful enjoyment of the premises by other residents, employees, agents and/or contractors of the HACSD.

P. To not keep dogs, cats, or other animals (except assistive animals for persons with disabilities) in or on the premises except in buildings designated as housing for the elderly or specific projects and/or buildings designated by the HACSD for registered pets.

Q. To pay charges (other than for normal wear and tear) for the repair of damages to the premises, project buildings, facilities or common areas caused by Resident, Resident's household or guests, or by Resident's failure to report needed repairs, in accordance with a schedule of charges as posted in the HACSD office. Any damage to the premises that is not described in the written report of inspection prior to Resident's occupancy will be presumed to have been caused by Resident.

R. To permit the HACSD, pursuant to the provisions of Paragraph 14, entrance to the premises for the purpose of performing periodic inventories and inspections, routine maintenance or repairs, providing extermination services, or showing the premises for re-leasing.

S. To not use or possess illegal firearms and/or other weapons.

T. To leave the dwelling unit, upon vacating the premises, in ~~a~~ clean condition, normal wear and tear excepted, and to return the keys to the HACSD. Any property left by Resident or Resident's household

in or about the premises after Resident vacates will be considered as abandoned and may be disposed of as the HACSD determines in accordance with State law.

U. To comply with the requirement of Community Service and self-sufficiency. (Section 12, USHA)

i. Requirement: Each adult resident shall participate in eight hours per month of either community service (not including political activities), or economic self-sufficiency classes or program. Exemption is provided, subject to specific requirements.

ii. Noncompliance: This Lease shall not be renewed or extended unless Resident enters into an agreement with HACSD, before the expiration date, to cure any noncompliance by participating in an economic self-sufficiency program or contributing to community service as many hours as the resident needs to comply with the requirement of eight hours per month.

V. Restrictions on Alterations:

No alteration, addition, or improvements shall be made in or to the premises without the prior consent of the Landlord in writing. The Landlord agrees to provide reasonable accommodation to an otherwise eligible tenant's disability, including making changes to rules, policies, or procedures, and making and paying for reasonable modifications (structural alterations to a unit or common areas). The Landlord is not required to provide accommodations or modifications that constitute a fundamental alteration to the Landlord's program or which would pose a substantial financial and administrative burden. See the regulations at 24 CFR Part 8. In addition, if a requested structural modification does pose a substantial financial and administrative hardship, the Landlord must then allow the Resident to make and pay for the modification in accordance with the Fair Housing Act.

W. To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety.

X. To comply with the requirements of HACSD's No Smoking Policy. HACSD's No Smoking Policy applies to all tenants, guests, and service personnel.

19. AUTHORIZED MANAGERS, NOTICES, DEMANDS AND SERVICE OF PROCESS:

A. Except as provided in Paragraph 14, notice to the Resident shall be in writing and delivered to the Resident or to an adult member of the Resident's household residing in the dwelling unit, or sent by prepaid first-class mail, properly addressed to the Resident, or any other method authorized by law.

B. Notice to the HACSD shall be in writing, delivered to the HACSD office or sent by prepaid first-class mail, properly addressed to the HACSD's office and the Property Management Office (see House Rules for address).

C. Notices sent by regular first class mail shall be deemed delivered on the second business day after depositing the same for mailing with the U.S. Postal Service postage prepaid.

D. The Property Manager whose name, address and phone number is listed on the House Rules is authorized to manage the premises on behalf of the HACSD and is authorized to act on behalf of the HACSD for the purpose of receiving service of process and receiving notices and demands.

E. If the Resident is visually impaired, all notices must be in an accessible format.

20. TERMINATION OF LEASE:

A. Resident may terminate this Lease at any time by giving Management 30 calendar days advance written notice. Failure to provide adequate notice will result in rent charged to the end of the 30-day period or until the unit is re-rented, whichever occurs first.

The HACSD shall have grounds to terminate or refuse to renew this Lease in situations where Resident is determined to be over program income limits and for serious or repeated failures by a resident to meet his or her obligations under this lease or for failure to comply with any rules or laws pertaining to program eligibility. Serious violations shall include but not be limited to the following:

1. Damage to the premises or other property of the HACSD caused by Resident, Resident's household members or Resident's guests which costs in excess of $500 to repair whether or not the cost is borne by the resident or the HACSD.
2. Failure to pay rent or other charges due under the lease or any judgment against resident and in favor of the HACSD.
3. Any failure by Resident to comply with the requirements of Paragraph 18A through X.
4. Engaging in drug trafficking.
5. Conviction of drug-related activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
6. Fleeing to avoid prosecution 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.
7. Violating a condition of probation or parole imposed under Federal or State law.
8. Confiscation of illegal and/or a controlled substance by a law enforcement officer occurring on or off the premises.
9. Resident's intentional misrepresentation to HACSD or failure to advise HACSD as specified in Paragraph 9 of this Lease.
10. Serious or repeated violations of the lease such as, failure to make payments due under the lease, failure to fulfill household obligations, or other good cause.

B. Leases terminated due to an over-income determination shall be converted to month-to-month term after receiving notification of intent to terminate. During this month-to-month period, Resident will have the choice of paying income-based, flat rent, or prorated rent.

C. Repeated violations shall be violations by Resident of any provision of the lease, including rules and regulations incorporated into the lease by reference, and more than twice in any 12 month period. Violations of different provisions of the lease shall be treated the same for purposes of this paragraph as successive violations of the same provision. Continuation of a lease violation shall be considered a new violation each time the HACSD issues a notice of the violation and the period given by that notice to the resident to correct the violation expires.

D. The HACSD shall give written notice of termination of the Lease of:

1. Fourteen calendar days in the form of 14-Day Notice to Terminate Lease Due to Non-payment of Rent in the case of failure to pay rent, followed by three (3) calendar days in the form of 3- Day Notice to Pay Rent or Quit.

2. Three-Day Notice to Quit in the case of any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the HACSD's public housing premises of other Residents or employees of the HACSD. You do not have the right to grieve this type of 3-Day Notice to Quit, as specified in the County of San Diego Procedure section 2(A)(1). Legal proceedings for unlawful detainer action will begin after expiration of the 3-Day Notice.

3. Thirty calendar days, in the form of 30-Day Notice of Intent to Terminate Lease, for any drug- related criminal activity on or off the public housing premises. Drug-related criminal activity means the illegal manufacture, sale distribution, use or possession with intent to manufacture, sell, distribute, or use a controlled substance, including confiscation of illegal and/or controlled substance by a law enforcement officer occurring on or off the premises. You do not have the right to grieve this type of 30-Day Notice to Quit.

4. Ninety calendar days in the form of 90-Day Notice to Terminate Lease and Vacate Due to Tenancy Limitation For Exceeding Income Limits. (See Chapter 12)

5. Thirty calendar days in all other cases.

6. If any additional notice is required by State or local law to terminate the Lease, such notice may be combined with, or run concurrently with, any notice specified above.

E. The notice of Lease termination to the Resident shall state specific grounds for termination and shall inform the Resident of the Resident's right to make such reply as the Resident may wish. The notice shall also inform the Resident of the right to examine HACSD's documents directly relevant to the termination or eviction. When the HACSD is required to afford the Resident the opportunity for a grievance hearing, the notice shall also inform the Resident of the Resident's right to request a hearing in accordance with the HACSD's grievance procedure.

F. When the HACSD is required to afford the Resident the opportunity for hearing under the HACSD's grievance procedure for a grievance concerning the Lease termination, the residency shall not terminate (even if any notice to vacate has expired) until the time for the Resident to request a grievance hearing has expired, and (if a hearing was requested in a timely manner by the Resident) the grievance process has been completed.

G. HACSD does not waive the right to terminate the Lease for cause other than non-payment of rent if HACSD accepts rent pro-rated to the termination date specified in the notice.

H. When the HACSD is not required to afford the Resident the opportunity for a hearing under the administrative grievance procedure for a grievance concerning the lease termination, the notice of termination shall:

1. State that the Resident is not entitled to a grievance hearing on the termination.

2. Specify that the judicial eviction procedure to be used by the HACSD for eviction procedure provides the opportunity for a hearing in court.

3. State whether the eviction is for a criminal activity or for drug-related criminal activity as described in the HACSD's Occupancy Policy and this Lease.

I. Notice to Post Office: When the HACSD evicts a family for engaging in criminal activity, including drug-related criminal activity; the HACSD shall notify the local post office serving that dwelling unit that such family is no longer residing in the dwelling unit.

J. The HACSD shall provide the Resident reasonable opportunity to examine, at the Resident's request and before an HACSD grievance hearing or court trial concerning a termination of residency or eviction, any documents, records, and regulations which are in the possession of the HACSD, and which are directly relevant to the termination of residency or eviction. The Resident shall be allowed to copy any such documents, records, and regulations at the Resident's expense. If the HACSD does not make documents available for examination upon request by the Resident in accordance with this, HACSD may not proceed with the eviction.

K. If a signer of this Lease ceases to be a member of the household, or if a family member is added to this Lease after required screening, the Lease will be amended to add or delete the family member, and Lease change must be initialed by the remaining adult members of the family, provided they are eligible for continued occupancy. If Resident is transferred to another housing unit managed by HACSD, this Lease shall be terminated and a new Lease must be signed by Resident for the housing unit into which Resident's family will move. If Resident's housing unit is destroyed or significantly damaged by fire or other means, this Lease shall automatically be terminated.

21. REGISTERED SEX OFFENDERS NOTICE: The California Department of Justice, sheriff's departments, police departments serving jurisdictions of 200,000 or more and many other local law enforcement authorities maintain for public access a data base of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of Section 290.4 of the Penal Code. The database is updated on a quarterly basis and a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender Identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals that they are checking. Information regarding neighborhoods is not available through the "900" telephone service. Locally, the database can be searched at the Licensing Division of the San Diego County Sheriff's Department, 9621 Ridgehaven Court, and San Diego.

22. GRIEVANCE: If Resident disputes any HACSD action or failure to act involving this Lease or HACSD regulations which adversely affect Resident's rights, duties, welfare or status, Resident may file a grievance within seven (7) working days of HACSD's action or inaction in accordance with the procedure attached hereto. HOWEVER, Resident may not file a grievance for a 3-Day Notice issued for any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the HACSD's public housing premises of other Residents or employees of the HACSD, or for a 30-Day Notice issued for any drug-related criminal activity on or off such premises.

23. MODIFICATIONS TO LEASE: Modifications of this Lease will be accompanied by a written addendum to the Lease executed by the HACSD and the Resident, except for rent redeterminations, eligibility for public housing, appropriateness of dwelling size, schedules of special charges for services and repairs, and rules and regulations which are incorporated in the Lease by reference. Matters incorporated in the Lease by reference shall be publicly posted in a conspicuous manner in the HACSD's office and shall be furnished to Residents upon request. HACSD shall provide at least 30 days notice to Residents and Resident organizations setting forth proposed changes in the Lease form used by HACSD, and providing an opportunity to present written comments, which shall be taken into consideration by the HACSD before formal adoption of any new Lease form.

24. WAIVER: The failure of the HACSD or the Resident to exercise any right or remedy as provided herein shall not affect the right to do so at a later date for similar or other causes.

25. HOUSE RULES: By initialing below, Resident acknowledges he/she has received, read, and understands and will comply with the House Rules. A copy of the House Rules is attached hereto, marked as Attachment A, and is incorporated herein by reference as though fully set forth at length. Said House Rules shall be deemed covenants of this agreement.

Initials _____

26. GRIEVANCE PROCEDURE: By initialing below, Resident acknowledges he/she has received, read and understands the copy of the HACSD Grievance Procedure. A copy of the Grievance Procedure is attached hereto, marked as Attachment B, and is incorporated herein by reference as though fully set forth at length.

Initials _____

27. DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING: The following provisions are applicable to situations involving incidents involving actual or threatened domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in Section 6(u)(3) of the United States Housing Act of 1937, as amended, (42 U.S.C. §1437d(u)(3)) and in the Housing Authority of the County of San Diego Violence Against Women Act (VAWA) Policy. To the extent any provision of this section shall vary from or contradict any other provision of the lease, the provisions of this section shall prevail.

A. Termination of tenancy.

1. An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not constitute a serious or repeated violation of the lease by the victim of such violence; and

2. Criminal activity directly relating to domestic violence, dating violence or stalking, engaged in by a member of the tenant's household, a guest, or other person under the tenant's control, shall not be cause for termination of tenancy or occupancy rights, if the Tenant or any member of the Tenant's family is a victim of that domestic violence, dating violence, sexual assault, or stalking.

3. Notwithstanding anything to the contrary contained in paragraphs A.1. and A.2. above, the Housing Authority of the County of San Diego may terminate Tenant's tenancy under this lease if it can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the development in which the unit is located.

4. Further, nothing in this section shall prohibit the Housing Authority of the County of San Diego from terminating tenancy under this lease based on a violation of this lease not premised on an act or acts of domestic violence, dating violence, sexual assault, or stalking against the tenant or a member of the tenant's household for which protection against termination of tenancy is given in paragraphs A.1. and A.2. above.

5. The Housing Authority of the County of San Diego may evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's

household, provided that the Housing Authority of the County of San Diego does not subject an individual who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than is applied in other situations in determining whether to evict or terminate. A victim tenant who allows a perpetrator to violate a court order relating to the act or acts of violence is subject to eviction. A victim tenant who allows a perpetrator who has been barred from Housing Authority of the County of San Diego property to come onto Housing Authority of the County of San Diego property, including but not limited to the victim's apartment and any other area under the victim tenant's control, is subject to eviction.

None of these provisions shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault, or stalking.

B. Bifurcation of Lease. Under the authority provided in Section 6(*l*)(6)(B) of the United States Housing Act of 1937, as amended (42 U.S.C. §1437d(l)(6)(B)), the Housing Authority of the County of San Diego may bifurcate the lease in order to evict, remove, or terminate assistance to any individual who is a Tenant or a lawful occupant under this lease and who engages in criminal acts of physical violence against family members or others. The Housing Authority of the County of San Diego may take such action without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such violence who is the Tenant or a lawful occupant under this lease.

C. Certification. If the Tenant or a lawful occupant, as a defense to termination of tenancy or an action to evict, claims protection under this section against such action, the Housing Authority of the County of San Diego will request the individual to deliver to the Housing Authority of the County of San Diego a certification. The certification may be delivered in one of the following forms:

1. A HUD-approved form attesting that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements of this section, or

2. Documentation signed by an employee, agent or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking or the effects of the abuse, in which the professional attests under penalty of perjury to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim has signed or attested to the documentation, or

3. A federal, State, tribal, or local police report or court record, describing the incident or incidents in question.

The certification must be delivered to the Housing Authority of the County of San Diego within 14 days after the request for certification is received from the Housing Authority of the County of San Diego. If the certification is not delivered to the Housing Authority of the County of San Diego within the 14-day period allowed, the provisions of this section will not apply and the Housing Authority of the County of San Diego may elect to terminate tenancy and evict without regard to the protections provided in this section.

D. Confidentiality. The law requires that information provided to the Housing Authority of the County of San Diego concerning an incident of incidents of domestic violence, dating violence, sexual assault, or stalking be retained in confidence, not placed in any shared data base nor provided to a related entity, except to the extent

disclosure requested or consented to by the individual supplying such information, or required for use in an eviction proceeding, or otherwise required by applicable law.

E.

Definitions. The following definitions apply to this Lease Amendment:

"Bifurcate" is defined, 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.

"Dating violence" is defined as 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 length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

"Domestic violence" includes 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 cohabitation with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under domestic or family violence laws, 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;

"Sexual assault" is 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))

"Smoking" is defined as inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

"Stalking" is defined as following, pursuing, or repeatedly committing acts with the intent to kill, injure, harass, or intimidate another person; or placing 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, placing a person in reasonable fear of the death of, or serious bodily injury to, or causing substantial emotional harm to that person; a member of the immediate family of that person; or the spouse or intimate partner of that person.

Initials _____

28. RECEIPT: I have read and understand this entire Lease. I hereby certify that all the information, which I have provided and upon which this Lease is based, is true and accurate.

Resident understands that the lease term paragraph 2 above contains provisions under which this Agreement may automatically continue on successive one-year terms until terminated by either party in accordance with the lease and applicable law.

_____ _____

Resident Date

_____ _____

Resident Date

_____ _____

Resident Date

_____ _____

Resident Date

HACSD

By Representative: _____ Date: _____

SMOKE DETECTOR LEASE ADDENDUM

THIS ADDENDUM dated _____, will become a part of the original lease dated _____ between _____ and _____ for the unit located at _____Chula Vista, CA known as _____.

1. **SMOKE DETECTOR.** You acknowledge that as of this date, the Unit is equipped with one or more smoke detectors; that YOU have inspected the smoke detector(s) and that YOU find it/them to be in good working order.
2. **REPAIR**. You agree that it is your duty to regularly test the smoke detector(s) and agree to notify owner immediately in writing of any problem, defect, malfunction, or failure of the smoke detector(s) within seven (7) days of receipt of such written notification by owner. Owner shall replace the smoke detector(s) assuming the availability of labor and materials.
3. **MAINTENANCE.**
4. You agree to replace the smoke detector(s) battery, if any, at anytime the existing battery becomes unserviceable.
5. If after replacing the battery, the smoke detector will not operate, you must inform the owner of any deficiencies.
6. **REPLACEMENT**. You agree to reimburse owner, upon request, for the cost of a new smoke detector and the installation thereof in the event the existing smoke detector(s) becomes damaged by you or your guests or invitees.
7. **DISCLAIMER**.
8. You acknowledge and agree that owner is not the operator, manufacturer, distributor, retailer or supplier of the smoke detectors(s): that you assume full and complete responsibility for all risk and hazards attributable to, connected with or in any way related to the use, operation, manufacture, distribution, repair, servicing or installation of said smoke detectors.
9. No representation, warranties, undertakings or promises, whether oral or implied, or otherwise have been made by owner, its agents or employees to you regarding smoke detectors(s), or the alleged performance of the same, owner neither makes nor adopts any warranty or any nature regarding said smoke detectors(s) and expressly disclaims all warranties of fitness for a particular purpose, of habitability, or any and all other expressed or implied warranties. Owner shall not be liable for damages or losses to person or property caused by (1) your failure to regularly test the smoke detectors(s) (2) your failure to notify owner of any problem, defect, malfunction, or failure of the smoke detector(s) (3) theft of the smoke detector(s) or it's serviceable battery: and/or (4) false alarms produced by the smoke detector(s).
10. **ENTIRE AGREEMENT**. The parties acknowledge that this written addendum is the entire agreement of the parties relative to the smoke detector(s) in the above referenced unit. Any agreement that in any way varies the terms of the Addendum shall be unenforceable and completely void unless such agreement is in writing and signed by both parties.
11. **TERM.** The term of this Addendum shall be the same term as Agreement of any renewal or extension of agreement.
12. **FINE.** A fine in the amount of $50.00 will be enforced if tenant tampers with any smoke detector in any manner. A second violation will result in a $100.00 fine. Third violation will result in a 90 day notice of eviction.

I acknowledge I have read this addendum and it places a duty upon me to regularly test the smoke detector(s) and report all malfunctions of the same to the owner in writing.

Executed this _____ day of _____ 20_____.

Lessee _____

Owner/Agent _____

ADDENDUM TO LEASE – MOLD NOTIFICATION AGREEMENT

THIS AGREEMENT is made and entered between the Housing Authority of the County of San Diego (Owner) and _____(Resident(s)). Resident(s) is/are renting from Owner of the premises located at: _____.

It is the goal of the Owner to maintain the highest quality of living environment for the residents of this property. Prior to your taking possession of the apartment listed above, and at the time of your move-in, the Owner, or its authorized Agent, has inspected the apartment and knows of no damp or wet building materials and knows of no mold or mildew contamination. Resident(s) is/are hereby notified that mold and mildew may grow on the surfaces in the apartment if the premises are not properly maintained and/or ventilated. If moisture is allowed to accumulate in your apartment, it can cause mildew and mold to grow. It is important that residents regularly allow air to circulate in the apartment. It is also important that Residents keep the interior of the apartment clean and that they promptly notify the Owner or it's authorized Agent, of any leaks, moisture problems, and/or mold or mildew growth.

Resident agrees to maintain the premises in a manner that prevents the occurrence of an infestation of mold or mildew. Resident agrees to uphold this responsibility in part by complying with the following list of responsibilities:

1. Keep the unit free of dirt and debris that can harbor mold or mildew.
2. Immediately report to the Owner, or its authorized Agent, any water intrusion such as plumbing leaks, drips, or other moisture conditions.
3. Notify Owner, or its authorized Agent, of overflows from bathroom, kitchen, or unit laundry facilities, especially in cases where the overflow may have penetrated the walls, cabinets or flooring.
4. Report to the Owner, or its authorized Agent, any significant mold growth on surfaces inside the premises.
5. Use bathroom exhaust fans while showering or bathing and report to the Owner, or its authorized Agent, immediately if the exhaust fan ceases to function properly.
6. Use the exhaust fans whenever cooking, dishwashing or cleaning.
7. Open bathroom windows (if applicable) while bathing, showering or cleaning.
8. Use all reasonable care to close all windows and other openings in the premises to prevent outdoor water from penetrating into the interior unit.
9. Clean and dry any visible moisture on windows, walls, and other surfaces, including personal property, as soon as reasonably possible. (Note: Mold and mildew can grow on damp surfaces within 24-48 hours.)
10. Notify the Owner, or its authorized Agent, of any problems with air conditioning or heating systems.

Resident hereby agrees to indemnify and hold harmless the Owner/Agent from any actions, claims, losses, damages, and expenses, including, but not limited to, attorney's fees that the Owner/Agent may sustain or incur as a result of the negligence of the Resident or any guest or other person living in, occupying, or using the premises.

The undersigned Resident(s) acknowledge(s) having read and understood the foregoing and receipt of a duplicate original.

Name _____ Date _____

Name _____ Date _____

Name _____ Date _____

CRIME FREE LEASE ADDENDUM

In consideration of the execution or renewal of a lease of the dwelling in the lease, Owner and Resident agree as follows:

1. Resident, any member of the resident's household or a guest or other person under the resident's control shall not engage in criminal activity, including drug-related criminal activity, on or near the said premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance (including Medical Marijuana) (as defined in Section 102 of the Controlled Substance Act [21 U.S.C.802]).

2. Resident, any member of the resident's household or a guest or other person under the resident's control shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or near the said premises.

3. Resident or members of the household will not permit the dwelling unit to be used for, or facilitate criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household or a guest.

4. Resident, any member of the resident's household or a guest, or another person under the resident's control shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance as defined in Health & Safety Code §11350, et seq., at any locations, whether on or near the dwelling unit premises or otherwise.

5. Resident, any member of the resident's household, or a guest or another person under the resident's control shall not engage in any illegal activity, including: prostitution as defined in Penal Code §647(b); criminal street gang activity, as defined in Penal Code §186.20 et seq.; assault and battery, as prohibited in Penal Code §240; burglary, as prohibited in Penal Code §459; the unlawful use and discharge of firearms, as prohibited in Penal Code §245; sexual offenses, as prohibited in Penal Code§269 and 288, or any breach of the lease agreement that otherwise jeopardizes the health, safety and welfare of the landlord, his agent or other tenant or involving imminent or actual serious property damage.

6. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY. A single violation of any of the provisions of this added addendum shall be deemed a serious violation and a material and irreparable non-compliance. It is understood that a single violation shall be good cause for termination of the lease. Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be by a preponderance of the evidence.

7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of the addendum shall govern.

This LEASE ADDENDUM is incorporated into the lease executed or renewed this day between Owner and Resident.

Date: _____ Address: _____

Chula Vista, CA _____ Owner/Agent: Owner/Agent: _____

NO SMOKING LEASE ADDENDUM

Property Name_____ Unit number _____

Resident Name(s) _____

Resident Address _____

The following terms, conditions and rules are hereby incorporated into the Lease Agreement for the above unit effective September 1, 2014.

No-smoking policy 羊Due to the increased risk of fire, increased maintenance costs, and the health effects of secondhand smoke, the Landlord has adopted a No Smoking Policy.

1. **Definition** 羊The term "smoking" means inhaling, exhaling, breathing, carrying, or possessing any lighted cigar, cigarette, pipe, other similar lighted product in any manner or in any form. The term "smoking" also includes operating an Electronic Smoking Device. "Electronic Smoking Device" is an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances and includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. "Electronic smoking device" does not include any product specifically approved by the U.S. Food and Drug Administration for use in mitigation, treatment, or prevention of disease.
2. **Landlord not a guarantor of smoke free environment** 羊Resident acknowledges that Landlord's adoption of a No Smoking Policy, and the efforts to designate the Property as non-smoking do not make the Landlord or any of its managing agents the guarantor of Resident's health.
3. **Landlord disclaimer** 羊Resident acknowledges that Landlord's adoption of a No Smoking Policy and the efforts to designate the Property as non-smoking does not in any way change the standard of care that the Landlord has under applicable law to render the Property any safer, more habitable or improved in terms of air quality standards than any other rental premises. Landlord specifically disclaims any implied or express warranties that the Property will have any higher or improved air quality standards than any other rental property. Landlord cannot and does not warranty or promise that the Property will be free from secondhand smoke. Resident acknowledges that Landlord's ability to police, monitor or enforce this Addendum is dependent in significant part on voluntary compliance by Residents and Residents' guests. Residents with respiratory ailments, allergies or other condition relating to smoke are put on notice that Landlord does not assume any higher duty of care to enforce this Addendum than any other Landlord obligation under the rental agreement.
4. **Lease violation** 羊Residents are responsible for the actions of their household, their guests and visitors. Failure to adhere to any of the conditions of this Addendum will constitute both a material non-compliance with the rental agreement and a serious violation of the Rental Agreement and may result in eviction. In addition, Resident will be responsible for all costs to remove smoke odor or residue upon any violation of this Addendum.

I have received and read the HACSD No Smoking Policy and agree to abide by the terms of the Policy and this Lease Addendum. I understand that failure to comply may result in termination from public housing.

_____ _____

RESIDENT SIGNATURE DATE HACSD Representative DATE

_____

RESIDENT SIGNATURE DATE

ATTACHMENT A

PUBLIC HOUSING LEASE
HOUSE RULES

For the benefit and well-being of the housing project and the residents, all residents agree to abide by these necessary and reasonable regulations set forth by the HACSD known as House Rules:

THE UNIT

RESIDENT'S INITIALS

_____ Noise must be held to a minimum at all times, especially before 8:00 am and after 10:00 pm. Loud music, radio or television is not permitted at any time.

_____ Brooms, mops and other personal belongings are to be stored on the patio, nor in the entry of the unit. Do not hang items on walls, fences, railings or hedges. Stored items cannot be visible from the street or create a fire hazard.

_____ Leaky faucets and pipes must be reported to resident management immediately.

_____ Do not use sticky-backed contact paper or other decorative items on any surface in your unit.

_____ All window coverings are to be white from the street side; no colored window coverings are to be visible from outside the apartment.

____ Any change to the building structure must be approved in writing in advance, including holes for telephone jacks, cable hookups, security screens and window bars.

____ Waterbeds may not be used unless evidence of insurance is provided and the HACSD is named as insured. The policy shall be written for no less than $100,000 of coverage.

THE GROUNDS AND COMMON AREAS

_____ Residents are responsible for their actions and the actions of all household members and guests when using the grounds and common areas.

_____ Recreational activities are permitted on designated playgrounds. Any recreational activities conducted in other areas of the property must not damage property or create a danger to the resident or others.

_____ Residents are responsible for picking up and properly disposing of litter and debris from around their apartment.

_____ It is your responsibility to use the laundry facilities only within posted hours and to clean after each use.

_____ Consumption of alcohol is not permitted outside the unit or on common grounds.

_____ The area in front of your apartment is to be kept litter free. You are responsible for picking up litter and keeping debris away from your apartment.

TRASH

___ If individual trash cans are provided for trash collection, place them on the street no sooner than the night before pickup and remove them by the morning after pickup.

___ Trash is to be tied in plastic bags whenever possible and must be placed in the dumpster. Trash must not be left outside the dumpster.

___ Place only the trash cans on the street. Garbage bags, boxes, loose garbage or trash left on the street will not be picked up.

CARS AND OTHER VEHICLES

___ Residents must park in designated parking spots.

___ Visitors may not park in parking areas designated for residents.

___ Washing cars is not permitted on the premises.

___ Automobile, motorcycle or any other heavy machinery repairs may not be made in the parking area or on any other portion of the housing sites. The repair of flat tires is exempted.

___ Non-working cars must be repaired or removed from the premises within five days.

___ Oil spills in the parking area are to be cleaned immediately with degreaser.

___ Abandoned or non-working vehicles will be ticketed and towed away at your expense.

INSTALLATION OF SATELLITE DISHES

_____ Satellite dishes must be installed within a unit patio or balcony. Residents may not install a satellite dish in common areas, on the roof, or on an exterior wall. Satellite dishes may be installed entirely inside a unit.

_____ Satellite dishes must not be larger than one meter in diameter (3 feet, 3 inches), measured across its widest part.

_____ Dishes must be securely mounted and may not extend beyond the edge of the apartment. Your dish must be mounted in such a manner that it cannot become dislodged. It must not extend beyond the edge of the patio or balcony railing. Hanging a satellite dish out of a window is prohibited.

_____ Drilling holes in railing, exterior walls, or any other location where holes might impair the building's weatherproofing or there is a risk of striking electrical or water lines is prohibited.

___ Dish must be professionally installed and management staff will supervise the installation.

___ Residents much provide proof of liability insurance to management to ensure that any injury or damage to persons or property caused by a satellite dish is covered.

KEYS

___ I will not install chain locks, deadbolt or slide bolt locks or any other lock without management authorization.

_____ I will return all door and mailbox keys when I move out. I understand that rent will be charged until all keys have been returned and management and I complete a joint move-out inspection. I understand that if I fail to return my mailbox key, the cost of changing the mailbox lock will be deducted from my security deposit.

Attachment B

Public Housing Lease

GRIEVANCE PROCEDURE

SECTION 1. SCOPE AND PURPOSE

The purpose of this grievance procedure is to assure that Residents are afforded an opportunity for a hearing if a Resident disputes, within a reasonable time, any action, or failure to act, involving the Resident's lease with the Housing Authority of the County of San Diego (HACSD) or HACSD Regulations which adversely affect the individual Resident's rights, duties, welfare or status. This grievance procedure is incorporated in the dwelling lease and is a part thereof.

SECTION 2. APPLICABILITY

A. This grievance procedure is applicable to all individual grievances as defined in Section 3 between the Resident and the HACSD, except that this procedure shall not be applicable to any termination of tenancy or eviction that involves:

(1) Any violent criminal activity or, other criminal activity that threatens the health, safety, or right to peaceful enjoyment of the HACSD's premises by other residents, employees, agents and/or contractors for the HACSD, including, on-site property management staff responsible for managing the premises.

(2) Any drug-related criminal activity on or off such premises.

B. This grievance procedure shall not be applicable to disputes between Residents not involving the HACSD or to class grievances, nor is this procedure intended to be a form for initiating or negotiating policy changes between a group or groups of Residents and the Housing Authority of the County of San Diego's Board of Commissioners.

SECTION 3. DEFINITIONS

The following definitions of terms shall be applicable to this grievance procedure:

A. **Business Days**: Monday through Friday of each week, except for legal holidays recognized by the Federal government.

B. **CFR**: The Code of Federal Regulations, which contains the Federal regulations governing this grievance procedure.

C. **Housing Authority:** The Housing Authority of the County of San Diego

D. **Complainant**: Any Resident whose grievance is presented to the HACSD in accordance with the requirements set forth in this procedure.

E. **Drug-related Criminal Activity**: The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use of a controlled substance (including Medical Marijuana), as defined in sec 102 of the Controlled Substances Act (21 U.S.C. Sec. 802) as from time to time amended.

F. **Elements of Due Process**: The following procedural safeguards are required to be followed in an eviction action or a termination of tenancy in a State or local court:

(1) Adequate notice to the Resident of the grounds for terminating the tenancy and for eviction.

(2) Right of the Resident to be represented by counsel.

(3) Opportunity for the Resident to refute the evidence presented by HACSD, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Resident may have.

(4) A decision on the merits.

G. **Grievance:** Any dispute which a Resident may have with respect to HACSD's action or failure to act in accordance with the individual Resident's Lease or HACSD regulations which adversely affects the individual Resident's rights, duties, welfare, or status.

H. **Hearing Officer**: An impartial person selected in accordance with 24 CFR Sec 966.55 and this grievance procedure to hear grievances and render decisions with respect thereto.

I. **Hearing Panel**: A panel selected in accordance with 24 CFR Sec 966.55 and this procedure to hear grievances and render decisions with respect thereto.

J. **HUD**: The United States Department of Housing and Urban Development.

K. **Notice**: As used herein, the term notice shall, unless otherwise specifically provided, indicates written notice.

L. **Resident**: The adult person (or persons) other than a live-in aid:

(1) Who resides in the unit and who executed the Lease with the HACSD as lessee of the dwelling unit, or if no such person resides in the unit;

(2) The person who resides in the unit, and who is the remaining head of the household of the Resident family residing in the dwelling unit.

M. **Resident Organization**: An Organization of Residents, which includes any Resident Council.

SECTION 4. INFORMAL SETTLEMENT OF GRIEVANCE

A. Initial Presentation

Any grievance must be personally presented, either orally or in writing, to the HACSD within seven business days after the occurrence of the event-giving rise to the grievance. Reasonable accommodations will be considered upon request and with proper verification if a resident's disability prevents him or her from presenting the grievance within seven business days.

B. Informal Conference

If the grievance is not determined by the HACSD to fall within one of the two exclusions mentioned in section 2A(1) and 2A(2) above, then the HACSD shall within five business days, after the initial presentation of the grievance, informally discuss the grievance with the Complainant or his representatives in an attempt to settle the grievance without the necessity of a hearing. If the informal conference cannot occur at the time the grievance is initially presented by the Complainant, then the Complainant shall be promptly notified in writing of the time and place for the informal conference.

C. Written Summary

Within 30 business days after the informal conference, a summary of the discussion shall be prepared by the HACSD and a copy thereof shall be provided to the Complainant. The summary shall be in writing and shall specify the names of the participants in the discussion, the date(s) of the discussion, the nature of the proposed disposition of the grievance, and the specific reasons for such disposition. This written summary shall also specify the procedures by which the Complainant may obtain a hearing if not satisfied by the proposed disposition of the grievance. A copy of the written summary shall also be placed in Complainant's Resident file.

D. A person or persons not a party to the dispute, or their subordinate shall act as qualified and impartial Hearing Officers or Hearing Panel members to conduct grievance hearings, should the informal conference result in no change of action.

SECTION 5. PROCEDURE TO OBTAIN A HEARING

The following procedures apply to the request for a grievance hearing under this grievance procedure:

A. Request for Hearing

If the Complainant is not satisfied with the results of the informal conference, the Complainant must submit a written request for a hearing to the HACSD within 14 business days after the date Complainant receives the summary of the informal conference discussion, delivered as required under Section 4 above.

Complainant's written request for a grievance hearing must specify:

(1) The reason(s) for the grievance; and

(2) The action or relief sought by the Complainant; and

(3) If the Complainant so desires, a statement setting forth the times at which the Complainant shall be available for a hearing during the next 30 business days; and

(4) If the Complainant has failed to attend an informal conference, a request that the hearing officer or panel waive this requirement.

(5) Complainant must inform and request arrangements to accommodate a handicap prior to the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the Complainant fails to request a hearing within 14 business days after receiving the written summary of the informal conference, the HACSD's decision rendered at the informal conference becomes final and the HACSD is not thereafter obligated to offer the Complainant a hearing. However, reasonable accommodations will be considered upon request and with proper verification if a resident's disability prevents him or her from submitting a written request within 14 business days.

B. Selection of Hearing Officer or Panel

A grievance hearing shall be conducted by an impartial person or persons appointed by the HACSD, other than a person who made or approved the HACSD action under review or a subordinate of such person.

(1) The HACSD shall appoint a person or persons (who may be an officer or employee of the HACSD).

(2) The HACSD may consult with resident organizations before the appointment of each hearing officer or panel member. Any comments or recommendations submitted by the tenant organizations shall be considered by the HACSD before the appointment.

C. Scheduling of Hearings

(1) Hearing Prerequisites: A Complainant does not have the right to a grievance hearing unless the Complainant has satisfied the following prerequisites to such a hearing:

a) The Complainant has requested a hearing in writing.

b) The Complainant has completed the informal conference procedure or has requested a waiver for good cause.

c) If the matter involves the amount of rent which the HACSD claims is due under the Complainant's lease, the Complainant shall have paid to the HACSD an amount equal to the

amount due and payable as of the first of the month preceding the month in which the complained of act or failure to act took place. And, in the case of situations in which reviews are for any reason delayed, the Complainant shall thereafter deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer or hearing panel. Unless waived by the HACSD in writing, no waiver shall be given by the HACSD except in cases of extreme and undue hardship to the Complainant, determined in the sole and absolute discretion of the HACSD.

2) Time, Place and Notice: Upon Complainant's compliance with the prerequisites to the review set forth above, and unless there are extenuating circumstances, a review shall be scheduled by the hearing officer for a time not less than seven (7) business days, nor more than 30 business days after the Complainant has completed such compliance.

A written notice specifying the time, place, and the procedures governing the hearing shall be delivered to the Complainant and the HACSD.

SECTION 6. PROCEDURES GOVERNING HEARINGS

A. Hearing

The hearing shall be held before a hearing officer or hearing panel as described above in Section 5. The Complainant shall be afforded a fair hearing, which shall include:

(1) The opportunity to examine before the hearing any HACSD documents, including records and regulations that are directly relevant to the hearing.

(2) The Complainant shall be allowed to copy any such document at no expense. If the HACSD does not make the document available for examination upon request by the complainant, the HACSD may not rely on such document at the grievance hearing.

(3) The right to be represented by counsel or other person chosen as the Complainant's representative and to have such person makes statements on the Complainant's behalf.

(4) The right to a private hearing unless the Complainant requests a public hearing. The right to present evidence and arguments in support of the Complainant's complaint, to controvert evidence relied on by HACSD and to confront and cross examine witnesses upon whose testimony or information the HACSD relies; and

(5) A decision based solely and exclusively upon the facts presented at the hearing.

B. Prior Decision in Same Matter

The hearing officer or panel may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding.

C. Failure to Appear

If the Complainant or HACSD fails to appear at a scheduled hearing, the hearing officer/panel will make a determination that the party failing to attend has waived the right to a hearing. In such event, the hearing officer shall notify the Complainant and the HACSD of the determination. A complainant may be allowed to reschedule a hearing for a documented emergency as a reasonable accommodation for disability upon request and with proper verification that a person's disability prevented him or her from attending the scheduled hearing.

The failure to attend a grievance hearing shall not constitute a waiver of any right the Complainant may have to contest the HACSD's disposition of the grievance in an appropriate judicial proceeding.

D. Required Showing of Entitlement to Relief

At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and, thereafter, the HACSD must sustain the burden of justifying the HACSD's action or failure to act against which the complaint is directed.

E. Informality of Hearing

The hearing shall be conducted informally by the hearing officer or hearing panel, and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to a judicial proceeding.

F. Orderly Conduct Required

The hearing officer or hearing panel shall require the HACSD, the Complainant, counsel, and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer or hearing panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

G. Transcript or Audio Tape of Hearing

The Complainant may arrange in advance, and at the expense of the party making the arrangement, for a transcript or audio tape of the hearing. Any interested party may purchase a copy of such transcript or audiotape.

H. Accommodations to Persons With Disabilities

The HACSD must provide reasonable accommodation for persons with disabilities to participate in grievance hearings. Complainant must inform and request arrangements to accommodate a disability prior to the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

SECTION 7. DECISION OF THE HEARING OFFICER OR HEARING PANEL

At or subsequent to the completion of the grievance hearing, the hearing officer or panel shall make a determination as to the merits of the grievance and the following provisions shall govern:

A. Written Decision

The hearing officer or panel shall prepare a written decision, together with the reasons for the decision within 30 business days after the completion of the hearing.

(1) A copy of the decision shall be sent to the Complainant and the HACSD. The HACSD shall retain a copy of the decision in the Complainant's Resident folder.

(2) A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the HACSD and made available for inspection by any prospective Complainant, his representative, or hearing officer or hearing panel.

B. Binding Effect

The written decision of the hearing officer or panel shall be binding upon the HACSD, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the HACSD Chief decides, within a reasonable time, and properly notifies the Complainant of its determination, that:

(1) The grievance does not concern an HACSD action or failure to act in accordance with or involving the Complainant's lease, or the HACSD's regulations, which adversely affect the Complainant's rights, duties, welfare or status, or

(2) The decision of the hearing officer or panel is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the HACSD

C. Continuing Right of Complainant to Judicial Proceedings

A decision by the hearing officer or panel or by HACSD Chief in favor of the HACSD or which denies the relief requested by the Complainant, in whole or in part, shall not constitute a waiver of, nor effect in any way the rights of the Complainant to a trial or judicial hearing in any judicial proceedings, which may thereafter be sought in the matter.

SECTION 8. NOTICES

All notices under this grievance shall be deemed delivered: (1) upon personal service therefore upon the Complainant or an adult member of the Complainant's household, (2) upon the date receipted for or refused by the addressee, in the case of certified or registered U.S. Mail, or (3) on the second day after the deposit thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail, other than certified or registered mail.

If a Resident is visually impaired, any notice hereunder delivered to such Resident shall be in an accessible format.

SECTION 9. MODIFICATION OF GRIEVANCE PROCEDURE

This grievance procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of the HACSD, present at a regular meeting or a special meeting called for such purposes. Further, in addition to the forgoing, any changes proposed to be made to this grievance procedure must provide for at least 30 days advance notice to Residents and Resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by the before final adoption of any amendments hereto.

SECTION 10. HOUSING AUTHORITY EVICTION ACTIONS

If a Resident has requested a hearing in accordance with Section 5 on a complaint involving a HACSD notice of termination of tenancy and the Hearing Officer or Hearing Panel upholds the HACSD's action to terminate the tenancy, the HACSD shall not commence an eviction action in a State or local court until it has served a notice to vacate on the Resident, and in no event shall the notice to vacate be issued prior to the decision of the Hearing Officer or the Hearing Panel having been mailed or delivered to the Complainant. Such notice to vacate must be in writing and specify that, if the Resident fails to quit the premises within the applicable statutory period, appropriate action shall be brought against him/her and he/she may be required to pay court costs and attorney fees.