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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Sanford Housing Authority (SHA) receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The SHA is not a federal department or agency. The SHA is a public housing agency (PHA), a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the public housing program. The PHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

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

There are three parts to this chapter:

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

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

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

PART I: THE SHA

1-I.A. OVERVIEW

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

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

Public housing is funded by the federal government and administered by the Sanford Housing Authority (SHA) for the jurisdiction of the City of Sanford, FL.

The SHA is governed by a board of officials that are generally called "commissioners." This document will hitherto refer to the "board of commissioners" or the "board" when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which the SHA conducts business, and ensures that those policies are followed by SHA staff. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability and success.

Formal actions of the SHA are taken through written resolutions, adopted by the board and entered into the official records of the SHA.

The principal staff member of the SHA is the executive director (ED), who is selected and hired by the board. The ED oversees the day to day operations of the SHA and is directly responsible for carrying out the policies established by the commissioners. The ED's duties include hiring, training, and supervising the PHA's staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates.

1-I.C. SHA MISSION

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

The Mission of the Housing Authority of the City of Sanford

Sanford Housing Authority is the premier developer and manager of reasonably priced attractive housing throughout the Sanford community. We are committed to partnering with our Stakeholders to enhance the quality of life of those we impact.

The Vision of the Housing Authority of the City of Sanford

- We are a financially sound, profitable business, providing educated housing choices in partnership with our community and customers.

- Our reputation of excellence is nationally recognized and respected.
- Our organization values participation, ownership, pride and trust, to foster a motivating environment in which the entire community benefits.

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

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

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing in good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the SHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the SHA's support systems and commitment to our employees and their development.

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

PART II: THE PUBLIC HOUSING PROGRAM

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

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

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

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

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

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

1-II.B. PUBLIC HOUSING PROGRAM BASICS

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

The job of the PHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The PHA screens applicants for public housing and, if they are found eligible and accepted, the PHA offers the applicant a unit. If the applicant accepts the offer, the PHA will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a tenant of the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The

Public Housing Occupancy Guidebook refers to tenants as “residents.” The terms “tenant” and “resident” are used interchangeably in this policy. Additionally, this policy uses the term “family” or “families” for residents or applicants, depending on context.

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

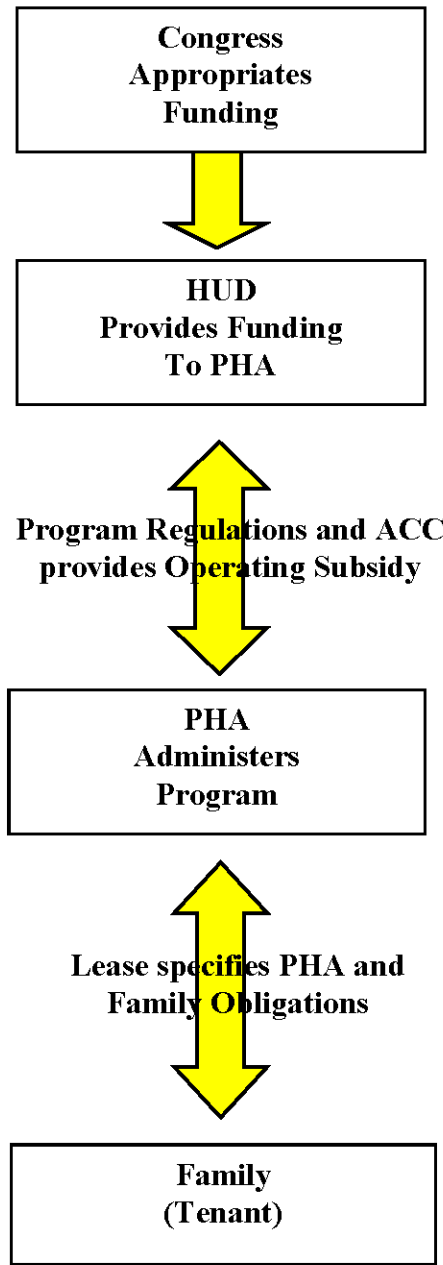
1-II.C. PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, the PHA enters into a contractual relationship with HUD through the ACC. The PHA also enters into a contractual relationship with the tenant through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved – HUD, the PHA, and the tenant – must play their important parts.

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

The Public Housing Relationships



What does HUD do?

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

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

What do the PHA do?

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

- Establish local policies
- Review applications from interested applicant families to determine whether applicants are eligible for the program
- Maintain waiting list and select families for admission
- Maintain housing units by making any necessary repairs in a timely manner
- Screen families who apply for tenancy, to determine if they will be good renters
- Offer units to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Make sure the PHA has adequate financial resources to maintain its housing stock
- Ensure that families continue to qualify under the program
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's ACOP, and other applicable federal, state and local laws.

What does the Tenant do?

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

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

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

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

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

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

The purpose of this Admissions and Continued Occupancy Policy (ACOP) is to establish policies and procedures for the public housing authority staff to follow in determining family eligibility for admissions and continued occupancy. These guidelines are governed by the requirements of the U.S. Department of Housing and Urban Development (HUD) with some latitude for local policies and procedures. These policies and procedures for admissions and continued occupancy are binding upon applicants, residents, and the SHA.

This Admissions and Continued Occupancy Policy for the Public Housing Program is designed to demonstrate that the SHA 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 decent, safe, and sanitary housing within a drug free, suitable living environment for tenants and their families.
- To avoid concentrations of economically and socially deprived families in any one or all of the SHA's public housing developments.
- 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 SHA 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 SHA's jurisdiction.

- To provide opportunities for upward mobility for families who desire to achieve self-sufficiency.
- To facilitate the judicious management of the SHA's inventory, and the efficient management of the SHA staff.
- To ensure compliance with Title VI of the Civil Rights Act of 1964 and all other applicable Federal laws and regulations so that the admissions and continued occupancy are conducted without regard to race, color, religion, creed, sex, national origin, handicap or familial status.

1-III.B. CONTENTS OF THE POLICY

Individual regulations contain requirements of inclusion in the SHA's written policy. The following mandatory elements are included in this ACOP:

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

Approach to Policy Development

HUD has developed an approach to monitoring policy that emphasizes the importance of consistency. This ACOP supports that goal by clearly defining SHA policy for SHA management and staff.

A primary focus of programs like HUD's Rental Integrity Monitoring (RIM) program has been consistency in how the SHA conducts its business and in how HUD monitors SHA activities. HUD has made it clear that consistency in SHA conduct is important. Referring to and following the ACOP is essential to maintaining consistency in applying SHA policy.

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

The SHA has developed policies and procedures that are consistent with mandatory policies and to make clear the optional policies the SHA has adopted. The SHA's Admissions and Continued Occupancy Policy is the document that contains and clarifies SHA policy. HUD's new direction adds additional emphasis to the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. Therefore, following HUD guidance in the preparation of SHA policy, even though it is not mandatory, provides a SHA with a "safe harbor." Because the SHA has adopted its own optional policy, it has made its determination that such policy is consistent with legislation, regulations, and other mandatory requirements.

1-III.C. UPDATING AND REVISING THE POLICY

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

The SHA will review and update the ACOP at least once a year, and more often if needed, to reflect changes in regulations, PHA operations, or when needed to ensure staff consistency in operation.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the SHA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD's Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register* ("Notice of Guidance").

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws requires the SHA to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The SHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

2-I.B. NONDISCRIMINATION

The SHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”). Furthermore, the SHA will not discriminate on the basis of marital status or sexual orientation.

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 SHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing

program

- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class
- The SHA shall not automatically deny admission to a particular group or category of otherwise qualified applicants (e.g., families with children born to unmarried parents, elderly families with pets).

Providing Information to Families

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

Posters and housing information are displayed in locations throughout the SHA's office in such a manner as to be easily readable from a wheelchair.

To further its commitment to full compliance with applicable Fair Housing laws, the SHA will provide Federal/State/local information to public housing residents regarding discrimination and any recourse available to them if they believe they are victims of discrimination. Such information will be initially available to them during the resident orientation session, and subsequently made available as part of their Annual Reexamination.

Discrimination Complaints

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

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

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

The SHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

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PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

The SHA shall ensure that persons with disabilities have full access to the SHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

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

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

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the Sanford Housing Authority.”

A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

SHA Policy

It is the policy of the SHA to provide courteous and efficient service to all applicants for housing assistance. In that regard, the SHA will make reasonable efforts to accommodate persons with disabilities, as well as those persons with language and literacy barriers.

It is the policy of the SHA 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. The SHA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize our public housing program and related services. The availability of specific accommodations will be made known by including notices on SHA forms and letters to all families, and all requests will be verified so that the SHA can properly accommodate the need presented by the disability.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability and they do not create an "undue financial and administrative burden" for the SHA; meaning an action requiring "significant difficulty or expense."

In determining whether accommodation would create an undue hardship, the following guidelines will apply:

- The nature and cost of the accommodation needed;
- The overall current financial resources of SHA and the facility or facilities involved in the provision of the reasonable accommodation; and
- The number of persons currently employed at such facility, the number of families likely currently to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the requested accommodation.

The SHA’s determination of an “undue financial and administrative burden” does not preclude the family from financing the accommodation themselves.

Types of Reasonable Accommodations

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

- Permitting applications and certification forms to be completed by mail
- Conducting home visits for the annual and interim reexaminations
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom

- Installing visual fire alarms for hearing impaired persons
- Allowing a SHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with SHA staff
- Displaying posters and other housing information in locations throughout the SHA's office in such a manner as to be easily readable from a wheelchair
- Facilitating assisted listening devices/a certified sign language interpreter/a Braille interpreter/or others, as appropriate to the situation, to facilitate the application or certification process.

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

If the need for the accommodation is not readily apparent or known to the SHA, the family must explain the relationship between the requested accommodation and the disability.

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

Communication

Anyone requesting an application will also receive a Request for Reasonable Accommodation form.

Notifications of reexamination, inspection, appointment, or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the tenant will include information about requesting a reasonable accommodation.

All decisions granting or denying requests for reasonable accommodations will be in writing.

2-II.D. VERIFICATION OF DISABILITY

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

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

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

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

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

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

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

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

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

- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the SHA, or fundamentally alter the nature of the SHA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the SHA at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

After a request for an accommodation is presented, the SHA will respond, in writing, within 10 business days.

If the SHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the SHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

If the SHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the SHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the SHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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

HUD regulations require the SHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the SHA's programs and services [24 CFR 8.6].

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

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display /

teletype) communication will be available.

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

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

2-II.G. PHYSICAL ACCESSIBILITY

The SHA will comply with a variety of regulations pertaining to physical accessibility, including the following.

- PIH 2002-01 (HA), Accessibility Notice
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

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

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the SHA's responsibilities with regard to physical accessibility.
- Notice PIH 2002-01(HA) Accessibility Notice (which must be posted in the public housing offices in a conspicuous place) summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The SHA's PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the SHA's grievance process [24 CFR 966.4(1)(3)(ii)].

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

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

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

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Affecting Limited English Proficient Persons, published December 19, 2003 in the *Federal Register*.

The SHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, the SHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the SHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the SHA.

2-III.B. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the SHA will generally offer, or ensure that the family is offered through other sources, competent interpretation services free of charge to the LEP person.

The SHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

The SHA has bi-lingual staff to assist non-English speaking families in Spanish. Where feasible and possible, the SHA will encourage the use of qualified community volunteers.

The SHA will refer persons with literacy barriers to appropriate community literacy programs for assistance with the completion of the application and certification process.

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 SHA. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

In order to comply with written-translation obligations, the PHA will take the following steps:

- The SHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the SHA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.
- SHA will consider providing HUD forms in Spanish or other languages where such forms are available, regardless of the number of families requiring such documents.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the SHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the SHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the SHA's public housing program and services.

If it is determined that the SHA serves very few LEP persons, and the SHA has very limited resources, the SHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the SHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

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

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

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

The phrase “physical or mental impairment” includes:

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

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

DRAFT

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program:

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

This chapter contains three parts:

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

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

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the SHA to deny admission.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403 and HUD-50058 IB, p. 13]

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

Family

To be eligible for admission, an applicant must qualify as a family. A family may be a single person or a group of persons. *Family* as defined by HUD includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. The SHA has further defined Family to include, but not necessarily limited to, the following:

- **A family with or without children.** (One person or more with or without minor children)
 - Unborn children and children in the process of being adopted are considered family members for the purpose of determining bedroom size but are not considered family members for determining income limit.
- An **elderly family** is:
 - A family whose head, spouse, or sole member is a person who is at least 62 years of age; or
 - Two or more persons who are at least 62 years of age living together
- A **near-elderly** family is:
 - A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or
 - Two or more persons who are at least 50 years of age but below the age of 62 living together;
- A **disabled family** is:
 - A family whose head, spouse, or sole member is a person with disabilities; or
 - Two or more persons with disabilities living together;
- A **displaced family** is a family in which each member, or whose sole member, has been displaced by governmental action, or 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.

- The **remaining member of a tenant family**.
- A **single person** who is not elderly, displaced, or a person with disabilities, or the remaining member of a tenant family;

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. For occupancy standards purposes, the applicant may claim a spousal type relationship with evidence that the relationship has existed for 2+ years.

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 SHA's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up

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

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will continue to be assisted.

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree, the SHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the SHA will determine which family retains their placement on the waiting list, or will continue in occupancy taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

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

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

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

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

- The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.
- 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.
- A family may designate an elderly or disabled family member as head of household solely to qualify the family as an Elderly Family, provided that the person is at least partially responsible for paying the rent.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household. Spouse also includes the partner in a common law marriage recognized by state law.

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

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

Minors who are emancipated under state law may be designated as a cohead.

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 [HUD-50058 IB, p. 14].

3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: 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 as described in Chapter 6.

Joint Custody of Dependents

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

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

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

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

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

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person [24 CFR 5.403]. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

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 Exhibit 3-1 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.

As discussed in Chapter 2, the SHA must make all aspects of the public housing program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

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

3-I.J. GUESTS [24 CFR 5.100]

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

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

- Residents are not allowed to have overnight guests for more than 7 consecutive days or a total of 14 cumulative calendar days during a 12 month period without the express written approval of the SHA. A resident family must request permission from the SHA, in writing, when overnight guests will be staying in the unit for more than 7 days.
- Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.
- Former residents who have been evicted are not permitted as overnight guests.
- Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

Exceptions

A family may request an exception to this policy for valid reasons, such as for the care of a relative recovering from a medical procedure expected to last more than 7 consecutive days, visits from vacationing family members or friends, temporary housing of relatives displaced by natural or man-made disaster, etc.

- An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.
- Any adult “guest” that is the subject of a request for the exception and who is expected to stay more than 21 days must undergo a criminal background check before the SHA will approve the exception.
- Any exception must be approved in writing by the SHA before the guest may exceed the consecutive or cumulative visitation limit.

Violation of the guest provisions constitutes a violation of the lease. The SHA may rely upon statements from neighbors and/or SHA staff, vehicle license plate verification, Post Office records, driver's license verification, law enforcement reports and credit reports to determine the presence of unauthorized members of the household.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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 [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

The term *foster child* is not specifically defined by the regulations, however the SHA defines a foster child as:

“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.”

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

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

Absent Students

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

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

Children temporarily absent from the home as a result of placement in foster care are considered members of the family. If a child has been placed in foster care, the SHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

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.

Individuals Confined for Medical Reasons

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

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

Return of Permanently Absent Family Members

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

3-I.M. LIVE-IN AIDE

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

SHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by a family member with disabilities. A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family. A live-in aide is not considered to be an assisted family member and has no rights or benefits under the program. Live-in aides are not subject to Non-Citizen Rule requirements;

Approval of a Live-In Aide

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

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

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

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the SHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- As a potential occupant of public housing, all live-in aides are subject to the SHA's routine criminal background reviews. A live-in attendant is not entitled to a hearing if denied admission on this basis.

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

After the SHA approves the addition of a live-in aide on behalf of a resident, the resident must submit a specific live-in aide's name and information for approval by the SHA within five (5) calendar days of the SHA's notification.

- If the five (5) calendar days expire, the resident will have to resubmit an application for approval of a live-in aide.

The SHA 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 SHA may take action against the live-in aide separate from action against the assisted family.

If the live-in aide or their family members participate in drug-related or criminal activity, the SHA 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 afforded to public housing residents.

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PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

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

Using Income Limits for Eligibility [24 CFR 960.201]

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

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

At least 40 percent of the families admitted to the SHA's public housing program during the SHA fiscal year from the SHA waiting list must be *extremely low-income* families. This is called the "basic targeting requirement".

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

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the SHA fiscal year
- Ten percent of waiting list admission to the SHA's housing choice voucher program during the SHA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or

more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. Family members who declare U.S. citizenship or national status will not be required to provide additional documentation unless the SHA receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with SHA efforts to verify their immigration status as described in Chapter 7. 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].

Ineligible Noncitizens

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

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

Mixed Families

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

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

The SHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen. [24 CFR 5.512(a)].

When the SHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the SHA. The informal hearing with the SHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 14.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

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

If an individual qualifies for a time extension for the submission of required documents, the SHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

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

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]

The applicant and all members of the applicant's household age 6 or older must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a household member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member who is at least six years of age is added to the household, the new member's SSN documentation must be submitted at the family's next interim or regular reexamination, whichever comes first. If any member of the household who is at least six years of age obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

The SHA must deny admission to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

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, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

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

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied admission.

In addition, HUD requires or permits the SHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The SHA's authority in this area is limited by the Violence against Women Reauthorization Act of 2005 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking.

This part covers the following topics:

- Required denial of admission
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, or stalking
- Notice of eligibility or denial

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

The SHA has established standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the SHA 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.

While the statute requires that the SHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the SHA has chosen to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

The SHA will deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 10 years for drug-related criminal activity.

The SHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 10 years for drug-related criminal activity, if 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, or the person who committed the crime is no longer living in the household.

- The SHA 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

The SHA

defines *Currently engaged in* as any use of illegal drugs during the previous three (3) years.

- The SHA 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.

In determining reasonable cause, the SHA 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. An arrest will be given the same weight as an arrest. The SHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

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

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

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

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

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

If the following applies or applied to any household member at any time, the family will be denied admission:

- Actual or threatened abusive or violent behavior toward SHA personnel at any time.
- No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- A person has served time in jail and has now been released on probation person cannot be admitted into public housing unless three (3) years has passed since the completion of probation.

- If the only sentence was probation, three years must have elapsed, without incident, since completion of probation, in order to be considered eligible for public housing. A person who is released from jail with no probation requirement would have to operate on the outside for three (3) years with no further evidence of the prohibited activities in order to be considered eligible for admission.

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past ten (10) years, the family will be denied admission.

- *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
- *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].
- Criminal activity that may threaten the health or safety of SHA staff, contractors, subcontractors, or agents.

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

Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]

The SHA shall deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

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

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other tenants
- Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)

- Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program
- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- Has engaged in or threatened violent or abusive behavior toward PHA personnel

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

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

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

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

3-III.D. SCREENING

Screening for Eligibility

The SHA shall obtain criminal arrest and conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This will assist the SHA in complying with HUD requirements and SHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the SHA will require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The SHA may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

The SHA will perform criminal background checks through local law enforcement for all adult household members.

The SHA will perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

If the SHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the SHA will notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to

dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

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

At application, the SHA will:

- Inquire of all applicants whether they are currently using, or have ever engaged in the illegal use of a controlled substance in the past.
- 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.

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

The written consent form shall authorize the SHA 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.

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

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough (within the last 3 years) to justify a reasonable belief that there is continuing illegal drug use by a household member.

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

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

Upon request of the applicant, the SHA will submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the PHA chooses to obtain such information, it will abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

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

The aim of the SHA is to attain a tenant body 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 SHA 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 SHA 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 SHA.

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

- The applicant's past performance in meeting financial obligations, especially rent and utilities.
- Eviction or a record of disturbance of neighbors sufficient, 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 any applicant family member involving criminal acts, including drug-related criminal activity.
- Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of 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.
- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C
- Compliance with any other essential conditions of tenancy

The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by the SHA. 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. [24 CFR 960.203(c)]
- Adversely affect the physical environment or financial stability of the project. [24 CFR 960.203(c)]
- Violate the terms and conditions of the lease. [24 CFR 960.203(c)].
- Require services from SHA staff that would alter the fundamental nature of the SHA's program. [24 CFR 8.3]

Resources Used to Check Applicant Suitability [PH Occ GB, pp. 47-56]

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

In order to determine the suitability of applicants the SHA will:

- Complete a rental history check on all applicants.
- Complete a credit check on all applicants.

The SHA will examine applicant history for the past five years. Such background checks will include:

- Past Performance in Meeting Financial Obligations, Especially Rent
 - PHA and landlord references for the past five years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again.
 - Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities

turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

- If an applicant has no rental payment history the SHA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.
- Applicants with no rental payment history will also be asked to provide the SHA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.
- If previous landlords or the utility company do not respond to requests from the SHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

The SHA will undertake a balancing test that will consider: (1) amount of former rent; (2) loss of employment; (3) death or divorce from primary support; (4) illness or other circumstances beyond applicant's control. 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 were withholding rent due to substandard housing conditions in a manner consistent with a local ordinance; or had a poor rent paying history clearly related to an excessive rent relative to their income (using 50% of their gross income as a guide) and responsible efforts were made by the family to resolve the nonpayment problem.

- **Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development**
 - PHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.
 - Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.
 - A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

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

Evidence

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

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

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

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

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.

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

The SHA will consider the following factors prior to making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, or stalking.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future
- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
 - The SHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol

rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, the SHA shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. The SHA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically 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 a reasonable accommodation.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. The SHA 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.

Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]

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

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

Reasonable Accommodation [PH Occ GB, pp. 58-60]

If the family includes a person with disabilities, the SHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

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

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162]

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 607(2) of VAWA

adds the following provision to Section 6 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the public housing program:

Every contract for contributions shall provide that . . . the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section 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, or stalking.

Definitions

As used in VAWA:

- The term *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 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.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *stalking* means:
 - 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.
- The term *immediate family member* means, with respect to a person –
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
 - Any other person living in the household of that person and related to that person by blood and marriage.

Notification

The SHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the SHA's policies. Therefore, if the SHA makes a determination to deny admission to an applicant family, the SHA will include in its notice of denial:

- A statement of the protection against denial provided by VAWA
- A description of SHA confidentiality requirements
- A request that an applicant wishing to claim this protection submit to the SHA documentation meeting the specifications below with her or his request for an informal hearing (see section 14-I.B)

Documentation

Victim Documentation

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

- A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking
- A police or court record documenting the domestic violence, dating violence, or stalking
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

Perpetrator Documentation

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

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving

assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

Time Frame for Submitting Documentation

The applicant must submit the required documentation with her or his request for an informal hearing (see section 14-I.B) or must request an extension in writing at that time. If the applicant so requests, the SHA will grant an extension of 10 business days and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If, after reviewing the documentation provided by the applicant, the SHA determines that the family is eligible for assistance, no informal hearing will be scheduled, and the SHA will proceed with admission of the applicant family.

SHA Confidentiality Requirements

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

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.

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

Information that has been verified by the SHA will be documented and 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.

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

If the SHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record will precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the SHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

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

given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the SHA to dispute the information within that 10 day period, the SHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

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

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

Resident Participation in the Screening Process

It is the SHA's policy to encourage resident participation in the applicant intake and screening process. The SHA recognizes that screening is only part of the occupancy cycle, and for the SHA-resident partnership to be effective, work is required both before and after admission. Given this policy, the SHA, in conjunction with its resident leaders, proposes the following areas of involvement:

- Orientation for families in shelters. The objective is to introduce shelter families to the SHA's screening requirements so that families with poor tenancy histories or no tenancy history can take actions to demonstrate that they meet SHA's criteria for admission.
- Applicant pre-occupancy orientation. Attendance at pre-occupancy orientation is a requirement of the screening process. The SHA and its residents will develop the agenda for this orientation to include such issues as rent, house rules, lease provisions, security, social services and utilities.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

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

 - (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (ii) is manifested before the individual attains age 22;
 - (iii) is likely to continue indefinitely;
 - (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and
 - (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.
- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

- (1) Physical or mental impairment includes:
 - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine
 - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) Is regarded as having an impairment means:
 - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
 - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment
 - (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

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

The policy contained herein presents the SHA's approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list. The SHA will follow this approach consistently. The actual order in which families are selected from the waiting list are affected if a family has certain characteristics designated by HUD or the SHA to receive preferential treatment.

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

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

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

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the SHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how the SHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the PHA will use to keep the waiting list current.

Part III: Tenant Selection. This part describes the policies that guide the SHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the SHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

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

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68].

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 eligibility for, and placement on, the waiting list. The pre-application will be dated, time-stamped and referred to the SHA's office where tenant selection and assignment is processed.
2. The second phase is the "final determination of eligibility for admission" (referred to as the full application). The full application takes place when the family reaches the top of the waiting list. At this time the SHA ensures that verification of all HUD and SHA eligibility factors is current in order to determine the family's eligibility for an offer of a suitable unit.

Pre-Application

Families may obtain pre-application forms from the SHA's Management Offices, the SHA Web Site or at the Central Office during normal business hours. Families may also request by telephone or by mail that a pre-application form be sent to the family via first class mail.

The pre-application will contain questions designed to obtain the following information:

- Names of head of household 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
- Source(s) of income received by household members to determine preference qualification
- Sufficient additional information to determine preference qualification
- Information regarding request for reasonable accommodation or for accessible unit

- Social Security Numbers
- Race/Ethnicity
- Arrests/Convictions for Drug Related or Violent Criminal Activity
- Previous address(es) for the last three (3) years
- Names and addresses of current and previous landlords
- Emergency contact person and address
- Questions regarding previous participation in HUD programs

Pre-applications will not require interviews. Information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

Completed pre-applications must be returned to the Central Office by mail, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by the SHA for processing. If an application is incomplete, the SHA will notify the family of the additional information required.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

The SHA will provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the SHA will provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of the SHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

The SHA shall take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the SHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The SHA will review each completed pre-application received and make a preliminary assessment of the family's eligibility. The SHA will place on the waiting list families for whom the list is open unless the SHA determines the family to be ineligible. Where the family is determined to be ineligible, the SHA will notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

If the SHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the SHA will send written notification of the ineligibility determination within 10 business days of receiving a completed application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

If after a review of the pre-application the family is determined to be preliminarily eligible, they will be notified in writing. The SHA will send the written notification of the preliminary eligibility determination within 10 business days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made on the basis of verification of information from the full application at the time the family is selected from the waiting list and invited to complete the full application.

Applicants will be placed on the waiting list according to SHA preference(s) and the date and time their complete application is received by the SHA.

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

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The SHA has policies regarding the type of waiting list it will utilize as well as the various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD has imposed requirements on how the SHA may structure its waiting list and how families must be treated if they apply for public housing at the SHA, since it administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

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

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

The waiting should contain the following information for each applicant listed:

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount and source of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household

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

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

4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

The SHA will close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants. Where the SHA has particular preferences or other criteria that require a specific category of family, the SHA may elect to continue to accept applications from these applicants while closing the waiting list to others. [PH Occ GB, p. 31].

Reopening the Waiting List

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

The SHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications are to be received.

The SHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- Orlando Sentinel
- Orlando Times
- La Prensa

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

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

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

SHA outreach efforts will comply with fair housing requirements. This includes:

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

SHA outreach efforts will inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

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

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform the SHA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

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

4-II.F. UPDATING THE WAITING LIST

The SHA has established policies to use when removing applicant names from the waiting list [24 CFR 960.202(a)(2)(iv)]. ***The waiting list will be updated as on an annual basis to ensure that all applicants and applicant information is current and timely.***

Purging the Waiting List

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

- To update the waiting list, the SHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the SHA has on record for the family. The update request will provide a deadline by which the family

must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

- The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by the SHA not later than 15 business days from the date of the SHA letter.
- If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.
- If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.
- If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.
- When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the SHA from making an eligibility determination; therefore no informal hearing is required.
- If a family is removed from the waiting list for failure to respond, the Executive Director may reinstate the family if s/he determines the lack of response was due to SHA error, or to circumstances beyond the family's control.

Removal from the Waiting List

The SHA will remove applicants from the waiting list if they have requested that their name be removed. In such cases no informal hearing is required.

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

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

PART III: TENANT SELECTION

4-III.A. OVERVIEW

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

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

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

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

4-III.B. SELECTION METHOD

The method for selecting applicant families from the waiting list, including the system of admission preferences that the SHA will use is described below. When more than one applicant for a particular type of housing have equal preferences, the applications will be selected on the basis of date and time of application, with the application with the oldest date and time selected first.

Local Preferences [24 CFR 960.206]

The SHA has established local preferences to give priority to serving families that meet those criteria. The local preferences shall be consistent with the PHA plan and the consolidated plan, and are based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

The SHA will use the following local preferences:

1. **Working Preference 1 (100 points)** - In order to bring higher income families with an extensive work history into public housing, the SHA has established a first-tier preference for "working" families, where the head, spouse, cohead, or sole member has been employed at least 32 hours per week for the prior 36 months. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a

person with disabilities, will also be given the benefit of the working preference [24 CFR 960.206(b)(2)].

2. **Working Preference 2 (50 points)** - In order to bring higher income families into public housing and to provide applicants with an incentive to work, the SHA has established a second-tier preference for “working” families, where the head, spouse, cohead, or sole member has been employed at least 20 hours per week for the prior 24 months.

Singles Preference

Definition of *Singles Preference*: Single applicants who are elderly or disabled will be given a selection priority over all “Other Single” applicants regardless of preference status.

“Other Singles” denotes a one-person household in which the individual member is neither elderly nor disabled. Such applicants will be placed on the waiting list in accordance with their preferences, but cannot be selected for assistance before any elderly or disabled one-person family regardless of local preferences.

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to public housing during the PHA’s fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the SHA may skip non-ELI families on the waiting list in order to select an ELI family.

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

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

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the SHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head,

spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. The SHA will give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The SHA will not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the SHA will first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The SHA shall not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Admission Preferences in Mixed Population developments are:

- 1. Mixed Housing Preference 1 – Elderly and/or Disabled Families (100 points)**
- 2. Mixed Housing Preference 2 – Near-Elderly Families with Working Preference 1 (75 points)**
- 3. Mixed Housing Preference 3 – Near-Elderly Families with Working Preference 2 (50 points)**
- 4. Mixed Housing Preference 4 – Near-Elderly Families (25 points)**

Units Designated for Elderly Families [24 CFR 945]

The SHA plans to designate Redding Gardens as a public housing project specifically for elderly families. The designation will be in accordance with a HUD-approved allocation plan that will be in place before the designation takes place.

At the development(s) designated for the elderly, the SHA will also apply the following preferences:

- 1. Designated Housing Preference 1 – Elderly disabled and Elderly non-disabled families (100 points)**
- 2. Designated Housing Preference 2 – Near-elderly disabled families (75 points)**
- 3. Designated Housing Preference 3 – Near-elderly non-disabled families with Working Preference 1 (50 points)**
- 4. Designated Housing Preference 4 – Near-elderly non-disabled families with Working Preference 2 (25 points)**

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

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

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

The SHA is currently seeking to designate Redding Gardens as Housing for the Elderly. There are no plans at present to designate any developments as Housing for the Disabled.

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

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

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

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements:

- Developments with fewer than 100 public housing units (Moughton, Higgins, Clark)
- Mixed population or developments designated specifically for elderly or disabled families (Redding)
- Developments approved for demolition or for conversion to tenant-based public housing
- Developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

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

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the SHA will take the following steps:

Step 1. The SHA will determine the average income of all families residing in all the PHA's covered developments (Castle Brewer Court and Lake Monroe Terrace) on an annual basis. The SHA may use the median income, instead of average income, provided that the PHA includes a written explanation in its annual plan justifying the use of median income.

Step 2. The SHA will determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development (not adjusting for unit size) on an annual basis.

Step 3. The SHA will then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. However, the upper limit must never be less than the income at which a family would be defined as an extremely low income family (30% of median income).

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

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission the essential action elements of the SHA's deconcentration policy will apply. For developments outside the EIR the PHA will take the following actions to provide for deconcentration of poverty and income mixing:

- Provide an occupancy incentive to encourage families to accept units in developments where their income level is needed. Under this incentive, a family may be offered a unit size that is larger than set forth in the Occupancy Standards, as children of the same sex may not be required to share a bedroom.
- Skip a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the SHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and SHA strategic objectives

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

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

Order of Selection [24 CFR 960.206(e)]

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

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

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

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

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the SHA will notify the family by first class mail when it is selected from the waiting list.

The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Documents that must be provided at the interview to document eligibility for a preference, if applicable
- Other documents and information that should be brought to the interview

If a notification letter is returned to the SHA with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the SHA from making an eligibility determination; therefore no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

The SHA shall obtain the information and documentation needed to make a final eligibility determination through a private interview. This interview is conducted at the time the full application is completed. Families selected from the waiting list for the purpose of completing the full application and determining eligibility are required to participate in an eligibility interview. Being invited to attend an interview does not constitute admission to the program.

Completion of the Full Application

The final determination of Eligibility and Suitability will be made only after the applicant has completed a Full Application and all pertinent information is verified by the SHA.

Applicants will be required to complete the full application in their own handwriting, unless assistance is needed, or a request for accommodation is made by a person with a disability. Applicants will also be required to complete a Personal Declaration Form prior to the full application interview. The applicant will sign and certify that all information is complete and accurate.

The full application will contain questions designed to obtain the following information:

- Names of head of household 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
- Source(s) of income received by household members to determine preference qualification
- Sufficient additional information to determine preference qualification
- Information regarding request for reasonable accommodation or for accessible unit
- Social Security Numbers
- Race/Ethnicity
- Arrests/Convictions for Drug-Related or Violent Criminal Activity
- Previous addresses for the last three (3) years
- Names and addresses of current and previous landlords
- Emergency contact person and address
- Questions regarding previous participation in HUD programs

The Full Application Interview

The SHA utilizes 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 in the full application is complete. The interview is also 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 SHA services or programs that may be available.

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

- The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the SHA.
- The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.
- If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the SHA will proceed with the interview. If the SHA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.
- The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required

signatures, and submit required documentation. If any materials are missing, the SHA will provide the family with a written list of items that must be submitted.

- Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

If an applicant fails to appear for a pre-scheduled appointment, the SHA will automatically schedule a second appointment. If the applicant misses the second appointment without prior approval, the application is denied.

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

- Interviews will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the SHA's LEP plan.
- If the family is unable to attend a scheduled interview, the family should contact the SHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the SHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without SHA approval will have their applications denied and removed from the waiting list, based on the family's failure to supply information needed to determine eligibility.
- The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be denied and removed from the waiting list. Such failure to act on the part of the applicant prevents the SHA from making an eligibility determination, therefore the PHA will not offer an informal hearing.

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

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

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

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

Any time after final eligibility determination, applicants must report changes in family status, including income, family composition, and address, in writing, within ten (10) business days of the change. If the family did not report the change within the required time frame, the family will be determined ineligible and offered an opportunity for informal hearing.

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

If the PHA determines that the family is ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal hearing (see Chapter 14).

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

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

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

Policies in this chapter are organized in two parts.

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

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

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards have been established by the SHA 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. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the SHA will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the SHA shall match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes, therefore the SHA has developed appropriate occupancy standards that do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

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

The SHA's occupancy standards for determining unit size will be applied in a manner consistent with fair housing requirements. The SHA will use the same occupancy standards for each of its developments.

The SHA's occupancy standards are as follows:

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

- Persons of the opposite sex (other than spouses, and children under age 5) will not be required to share a bedroom.
- Persons of different generations will not be required to share a bedroom.
- Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
- Single person families will be allocated a zero or one bedroom.
- Foster children will be included in determining unit size.

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

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

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

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

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

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

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

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

Processing of Exceptions

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

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

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

The SHA will notify the family of its decision within 10 business days of receiving the family's request.

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PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

The SHA will assign eligible applicants to dwelling units in accordance with its plan and in a manner that is consistent with civil rights and nondiscrimination.

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

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

5-II.B. NUMBER OF OFFERS

The SHA has adopted a "one offer plan" for offering units to applicants.

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

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer. Offers made by telephone will be confirmed by letter.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

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

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

- Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities
- The family demonstrates to the SHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption

- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member
- The unit is inappropriate for the applicant’s disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move
- The unit has lead-based paint and the family includes children under the age of six

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

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

Unit Refusal Without Good Cause

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

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

5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

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

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

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

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

- Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.
- When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the SHA will offer the unit to a non-disabled applicant.
- When offering an accessible unit to a non-disabled applicant, the SHA 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 non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

The SHA's policies for offering units designated for elderly families only are described in the SHA's Designated Housing Plan.

Chapter 6

INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. The SHA 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 SHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and SHA policies for calculating annual income are found in Part I.

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

Part III: 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 in rents.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

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

Temporarily Absent Family Members

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

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

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

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

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

Absent Head, Spouse, or Cohead

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.

Individuals Confined for Medical Reasons

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

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

Joint Custody of Children

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

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

Caretakers for a Child

If neither a parent nor a designated guardian remains in a household receiving assistance, the SHA will take the following actions.

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the SHA will extend the caretaker's status as an eligible visitor.
- At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

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

Known Changes in Income

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

Example: An employer reports that a full-time employee who has been receiving \$6/hour will begin to receive \$6.25/hour in the eighth week after the effective date of the reexamination. In such a case the SHA would calculate annual income as follows:
($\$6/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}$) + ($\$6.25 \times 40 \text{ hours} \times 45 \text{ weeks}$).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the SHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the SHA’s policy on reexaminations does not require interim reexaminations for other types of changes.

Up-Front Income Verification (UIV) and Income Projection [HUD 2008 EIV Webcasts]

HUD strongly recommends the use of up-front income verification (UIV) techniques. UIV is “the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals” [VG, p. 7]. One such source is HUD’s Enterprise Income Verification (EIV) system, which maintains data on three types of income: wages,

unemployment benefits, and social security (SS) and supplemental security income (SSI) benefits.

HUD allows the SHA to use UIV data as third-party verification of an income source when a resident does not dispute the source. UIV data, however, is generally several months old. Therefore, except in the case of SS and SSI benefits, which are not subject to frequent or dramatic changes, HUD expects the SHA to base its income projection on documentation of current circumstances provided by the resident (such as consecutive pay stubs dated within the last 60 days) or by the income source (if the SHA determines that additional verification is necessary).

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(b)(1)]

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

For persons who regularly receive bonuses or commissions, the SHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the SHA will use the prior year amounts. In either case the family may provide, and the SHA 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 SHA will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income.

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings [24 CFR 5.609(c)(1)]

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs [24 CFR 5.609(c)(17)]

Income from some federal programs is specifically excluded from consideration as income, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend [24 CFR 5.600(c)(8)(iv)]

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

State and Local Employment Training Program

Incremental earnings and benefits to any family member resulting from participation in qualifying state 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 [24 CFR 5.609(c)(8)(v)].

- The SHA 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 SHA 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 SHA 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 SHA's interim reporting requirements (see chapter on reexaminations).

HUD-Funded Training Programs

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

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

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

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

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255]

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

Eligibility

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

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

The SHA defines *prior income*, or *prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

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 and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from

another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

- During the 48-month eligibility period, the SHA will conduct an interim reexamination each time there is a change in the family member’s annual income that affects or is affected by the EID (e.g., when the family member’s income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Individual Savings Accounts [24 CFR 960.255(d)]

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

The rules pertaining to ISAs do not apply to this public housing program.

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

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

Business Expenses

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

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

Business Expansion

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

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 SHA to deduct from gross income the amortization of capital indebtedness.

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the SHA 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 SHA 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.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of \$2,000 to help a business get started, the SHA 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

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.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

While there is no asset limitation for participation in the public housing program, the SHA does include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the SHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

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

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

General Policies

Income from Assets

The SHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the SHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the SHA 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 SHA 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 SHA to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

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

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in 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.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3)]

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

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

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

- If an asset is owned by more than one person and any family member has unrestricted access to the asset, the SHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.
- If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the SHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the SHA will prorate the asset evenly among all owners.

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

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

Minimum Threshold

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

- The SHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.
- When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

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

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.

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

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

Types of Assets

Checking and Savings Accounts

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

- In determining the value of a checking account, the SHA will use the average monthly balance for the last six months.
- In determining the value of a savings account, the SHA will use the current balance.
- In determining the anticipated income from an interest-bearing checking or savings account, the SHA will multiply the value of the account by the current rate of interest paid on the account.

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

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the SHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the SHA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

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

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

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

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

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the SHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

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

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

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

- In determining the value of personal property held as an investment, the SHA will use the family's estimate of the value. The SHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
- Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

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

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

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

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

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)].

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

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

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone) [24 CFR 5.609(c)(2)] ***The SHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].***

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].
Note: EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

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 [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The SHA will 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 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by 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 SHA must include in annual income “imputed” welfare income. The SHA will request that the welfare agency inform the SHA when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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)].

For special procedures related to grievance hearings based upon the SHA’s denial of a family’s request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

The amount of the imputed 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)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

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

Alimony and Child Support

The SHA will count court-awarded amounts for alimony and child support unless the SHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

Regular Contributions or Gifts

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

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

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

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

6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)].
 - Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment **is not** considered student financial assistance and is included **in** annual income.
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

- (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (h) 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)
- (i) 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 U.S.C. 1087uu)
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (k) 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-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (m) 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)
- (n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (o) 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)
- (p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
- (r) 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)

- (s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

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PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

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

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

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

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

Anticipating Expenses

Generally, the SHA 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 nonschool periods and cyclical medical expenses), the SHA 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 SHA 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 SHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of \$480 is taken for each dependent [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-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$400 is taken for any elderly or disabled family [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-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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

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

Definition of Medical Expenses

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

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

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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 medical or disability assistance expenses, the SHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three 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.

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

Eligible Disability Expenses

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

Eligible Auxiliary Apparatus

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

Eligible Attendant Care

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

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

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

If the care attendant also provides other services to the family, the SHA 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 expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are 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.

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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 medical or disability assistance expenses, the SHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family’s household, are included when determining the family’s child care expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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 SHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child care expense being allowed by the SHA.

Furthering Education

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a

formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

The SHA may not limit the deduction solely on the basis of 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].

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the SHA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

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

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 SHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

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 SHA will use the schedule of child care costs from the local welfare agency. Families may present, and the SHA will consider, justification for costs that exceed typical costs in the area.

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

The PHA has opted not to use permissive deductions.

PART III: CALCULATING RENT

6-III.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- A minimum rent of \$50 (established by the SHA)

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

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

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

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

The SHA chooses not to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(3)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. The SHA will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

Because the SHA has established a minimum rent greater than zero, the SHA 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 SHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

Financial Hardship – Defined

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.
 - The SHA has determined that 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.
 - For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.
- (3) Family income has decreased because of changed family circumstances, including the loss of employment.
- (4) A death has occurred in the family.
 - 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).

Implementation of Hardship Exemption

Determination of Hardship

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

The SHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

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

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

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption	
Based on an established a minimum rent of \$50.	
TTP – No Hardship	TTP – With Hardship
\$0 30% of monthly adjusted income	\$0 30% of monthly adjusted income
\$15 10% of monthly gross income	\$15 10% of monthly gross income
\$50 Minimum rent	\$50 Minimum rent
Minimum rent applies. TTP = \$50	Hardship exemption granted. TTP = \$15

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 SHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

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

For procedures pertaining to grievance hearing requests based upon the SHA’s denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

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

Temporary Hardship

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

The family must resume payment of the minimum rent and must repay the SHA the amounts suspended. HUD requires the SHA to offer a reasonable repayment agreement, on terms and conditions established by the SHA. The SHA 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 SHA’s denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

The SHA will enter into a repayment agreement in accordance with the SHA's repayment agreement policy (see Chapter 16).

Long-Term Hardship

If the SHA determines that the financial hardship is long-term, the SHA will exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

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

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-III.C. UTILITY ALLOWANCES [24 CFR 965, Subpart E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the SHA will use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]

On request from a family, the SHA will approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

The SHA will review its schedule of utility allowances each year. Between annual reviews, the SHA will revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective [PH Occ GB, p. 171].

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

Unless the SHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

6-III.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The SHA will prorate the assistance provided to a mixed family. The SHA 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 SHA will:

- (1) Subtract the TTP from a maximum 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 maximum 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.

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

For policies related to the establishment of the public housing maximum rent see Chapter 16.

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

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family by the SHA is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

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

Once each year, the SHA will 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 SHA will document that flat rents were offered to families under the methods used to determine flat rents for the SHA.

- The annual SHA 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 SHA 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 SHA will provide sufficient information for families to make an informed choice. This information will include the SHA'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 SHA shall 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)]

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 SHA determines that a financial hardship exists, the SHA will immediately allow the family to switch from flat rent to the income-based rent. [PH Occ GB, p. 137].

Upon determination by the SHA that a financial hardship exists, the SHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

The SHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent because:

- 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 SHA to be appropriate

Change in Flat Rents

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

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.

A family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their 48 month period would have the 12 cumulative months of full (100 percent) and phase-in (50 percent) exclusion continue while paying flat rent as long as the employment that is the subject of the exclusion continues, and the 48-month lifetime limit would continue uninterrupted. A family paying flat rent could therefore see a family member's 48-month lifetime limit expire while the family is paying flat rent.

Flat Rents and Mixed Families [A&O FAQs]

Mixed families electing to pay flat rent must first have a flat rent worksheet completed to see if the flat rent must be prorated. The worksheet is located in Appendix III of the *Form HUD-50058 Instruction Booklet*.

If the flat rent is greater than or equal to the public housing maximum rent, there is no proration of flat rent and the family pays the flat rent for the unit.

If the flat rent is less than the maximum rent, the worksheet will calculate a prorated flat rent. The mixed family will pay the prorated flat rent.

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EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(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 depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where 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 HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31¹; and

(B) Are not otherwise excluded under paragraph (c) of this section.

¹ Text of 45 CFR 260.31 follows (next page).

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance

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EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) 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);
- (3) 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 (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
- (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);
- (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) 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. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) 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 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;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) 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;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) 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;

(16) 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; or

(17) 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. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
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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) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first \$2000 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 \$2000 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);

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

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) 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-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) 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);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) 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);

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

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from

spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) 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); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

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EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received 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 important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

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EXHIBIT 6-4: EARNED INCOME DISALLOWANCE

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

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

Disallowance. Exclusion from annual income.

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

Qualified family. A family residing in public housing:

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

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

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

(2) *Second twelve month exclusion and phase-in.* During the second cumulative twelve month period after the date a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) *Maximum four year disallowance.* The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 48 month period. It only applies for a maximum of twelve months for disallowance under paragraph (b)(1) and a maximum of twelve months for disallowance under paragraph (b)(2), during the 48 month period starting from the initial exclusion under paragraph (b)(1) of this section.

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

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

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

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

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

(i) Purchasing a home;

(ii) Paying education costs of family members;

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

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

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

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

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

EXHIBIT 6-5: 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.

Chapter 7

VERIFICATION

[24 CFR 960.259, 24 CFR 5.230]

INTRODUCTION

The SHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and tenants must cooperate with the verification process as a condition of receiving assistance. The SHA must not pass on the cost of verification to the family.

The SHA will follow the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance ("VG") and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary SHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

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 SHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]

The family must supply any information that the SHA or HUD determines is necessary to the administration of the program and must consent to SHA verification of that information [24 CFR 960.259(a)(1)].

Consent Forms

It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the SHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the SHA will deny admission to applicants and terminate the lease of tenants. The family may request a hearing in accordance with the SHA's grievance procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [VG, p. 11-14]

HUD authorizes the SHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the SHA to use the most reliable form of verification that is available and to document the reasons when the SHA uses a lesser form of verification.

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

- Up-front Income Verification (UIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the Verification Guidance that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the SHA. The documents must not be damaged, altered or in any way illegible.

The SHA will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the SHA would accept the most recent report.

Print-outs from web pages are considered original documents.

The SHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

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

File Documentation

The SHA will 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 SHA 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.

The SHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When the SHA is unable to obtain 3rd party verification, the SHA will document in the family file the reason that third-party verification was not available and will place a photocopy of the original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the SHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the SHA.

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

- **HUD's EIV system**

There may be legitimate differences between the information provided by the family and UIV-generated information. The SHA may not take any adverse action against a family based solely on UIV data unless the family does not dispute the data. The SHA must independently verify any UIV data that the family disputes, and, before taking any adverse action, it must give the family the opportunity to contest the action through the SHA's informal review/hearing processes. (For more on UIV and income projection, see section 6-I.C.)

Use of HUD's Enterprise Income Verification (EIV) System

HUD's EIV system contains data showing earned income, unemployment benefits, and social security (SS) and supplemental security income (SSI) benefits for resident families. HUD requires the SHA to use the EIV system. The following policies apply to use of HUD's EIV system.

The EIV system contains two main components: income reports and income discrepancy reports.

Income Reports

The data shown on income reports is updated quarterly. SHA understands that data may be between three and six months old at the time reports are generated.

- The SHA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.
- Income reports will be compared to family-provided information as part of the annual reexamination process. When the family does not dispute the UIV data, income reports may be used to meet the regulatory requirement for third-party verification.
- Income reports will be used in interim reexaminations when necessary to verify employment income, unemployment benefits, and SS/SSI benefits and to verify that families claiming zero income are not receiving income from any of these sources.
- Income reports will be retained in resident files with the applicable annual or interim reexamination documents.
- When the SHA determines through income reports and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, "Program Integrity."

Income Discrepancy Reports (IDRs)

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

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

- The SHA will generate and review IDRs at least semiannually. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.
- In reviewing IDRs, the SHA will begin with the largest discrepancies.

- When the SHA determines that a resident appearing on the IDR has not concealed or underreported income, the resident’s name will be placed on a list of “false positive” reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.
- When it appears that a family may have concealed or underreported income, the SHA will request independent third-party written verification of the income in question.
- When the SHA determines through IDR review and independent third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 15, “Program Integrity.”

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

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

- The SHA will identify residents whose identity verification has failed as part of the annual reexamination process.
- The SHA will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When the SHA determines that discrepancies exist as a result of SHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

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

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the SHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

- The SHA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.
- The SHA may mail, fax, e-mail, or hand-deliver third-party written verification requests and will accept third-party responses using any of these methods. The SHA will send a written request for verification to each required source within 5 business days of securing a family’s authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, the SHA will request third-party oral verification.

- The SHA will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, SHA staff will record in the family’s file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.
- When any source responds orally to the initial written request for verification, the SHA will accept the oral response as oral verification but will also request that the source complete and return any verification forms that were provided.
- If a third party agrees to confirm in writing the information provided orally, the SHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, the SHA will use any information provided orally in combination with reviewing family-provided documents (see below).

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the SHA will use the information from documents on a provisional basis. If the SHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the SHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the SHA’s interim reexamination policy.

When Third-Party Verification is Not Required

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.

Certain Assets and Expenses

The SHA may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28] if no stronger form of verification exists or the SHA determines it is not cost-effective to obtain a stronger form of verification. Therefore, the SHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$500 annually and the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The SHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the SHA will rely upon review of documents when the SHA determines that a third party's privacy rules prohibit the source from disclosing information.

The SHA will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

If the family cannot provide original documents, the SHA 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].

The SHA will document, in the family file, the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file. [VG, p. 15]

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

If the SHA has determined that third-party verification is not available or not required, the SHA will use documents provided by the family as verification.

The SHA may also review documents when necessary to help clarify information provided by third parties. In such cases the SHA will document in the file how the SHA arrived at a final conclusion about the income or expense to include in its calculations.

7-I.F. SELF-CERTIFICATION

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 SHA.

The SHA 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 SHA 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 SHA representative or SHA notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

The SHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID School records

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the SHA’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 SHA and be signed in the presence of a SHA representative or SHA notary public.

Legal identity will be verified on an as-needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

The SHA will also accept the following documents as evidence if the SSN is provided on the document:

- Driver’s license
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union
- Payroll stubs
- Benefit award letters from government agencies; retirement benefit letters; life insurance policies

- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)
- Bank Statements
- Life Insurance policies
- IRS form 1099

If the family reports an SSN but cannot provide acceptable documentation of the number, the SHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The SHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

- The SHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.
- For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the SHA will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

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.

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

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

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

- A marriage certificate generally is required to verify that a couple is married.
- In the case of a common law marriage, the couple must demonstrate that they currently 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) and that the common law marriage occurred in a state where it is legally recognized.

Separation or Divorce

Certification by the head of household is normally sufficient verification. If the SHA has reasonable doubts about a separation or divorce, the SHA will require the family to document the divorce, or separation.

- A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.
- A copy of a court-ordered maintenance or other court record is required to document a separation.
- If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family. The SHA 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 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 SHA 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.

Foster Children and Foster Adults

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

7-II.E. VERIFICATION OF STUDENT STATUS

The SHA 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 his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

The SHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The SHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The SHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the SHA receives a verification document that provides such information, the SHA will not place this information in the tenant file. Under no circumstances will the SHA 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 SHA 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].

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

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 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

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

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 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 SHA 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.

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 7-2 at the end of this chapter summarizes documents family members must provide.

SHA Verification [HCV GB, pp 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the SHA will verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The SHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The SHA will verify any preferences claimed by an applicant.

The SHA offers a preference for working families, described in Section 4-III.B.

The SHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 32 hours per week (Working Preference 1) or at least 20 hours per week (Working Preference 2). The paycheck stub must have been issued to the working member within the last thirty days.

The SHA may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides SHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

The SHA 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 SHA 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 SHA 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 SHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the SHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the SHA 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 has received the original benefit verification letter, it will be required to provide the letter to the SHA.

To verify the SS/SSI benefits of residents, the SHA will obtain information about social security/SSI benefits through HUD's EIV system. If benefit information is not available in the EIV system, the SHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, the SHA 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 has received the benefit verification letter, it will be required to provide the letter to the SHA.

7-III.D. ALIMONY OR CHILD SUPPORT

The way the SHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be sought in the following order.

- If payments are made through a state or local entity, the SHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.
- Third-party verification from the person paying the support
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

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

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts

Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The SHA shall verify only those certifications that warrant documentation [HCV GB, p. 5-28].

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

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

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the SHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The SHA 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 SHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

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 SHA 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.G. RETIREMENT ACCOUNTS

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

- *Before* retirement, the SHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

- *Upon* retirement, the SHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.
- *After* retirement, the SHA 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.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The SHA will obtain verification for income exclusions only if, without verification, the SHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the SHA will confirm that SHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

The SHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family's rent (as is the case with the earned income disallowance). In all other cases, the SHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

The SHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by families claiming to have zero annual income.

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 SHA 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 (6-II.B.) for a full discussion of this deduction. The SHA 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 (6-II.C.) for a discussion of the deduction. The SHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

The SHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the SHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The SHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months

In addition, the SHA will verify that:

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

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The SHA 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 medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the SHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

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

Expenses Incurred in Past Years

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

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

The SHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party is not possible, 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
- If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the SHA 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 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

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 SHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

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

The SHA will seek 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.).

If third-party and document review 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.

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

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 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the SHA will verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- 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 SHA 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.

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family 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 SHA will 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.

Information to be Gathered

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

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

Furthering Education

The SHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The SHA will seek verification from the employer 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.

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.

- The SHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).
- The SHA 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 SHA 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.

The actual costs the family incurs will be compared with the SHA'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 SHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Excerpt from HUD Verification Guidance Notice (PIH 2004-01, pp. 11-14)

Upfront (UIV)	Highest (Highly Recommended, highest level of third party verification)
Written 3rd Party	High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)
Oral 3rd Party	Medium (Mandatory if written third party verification is not available)
Document Review	Medium-Low (Use on provisional basis)
Tenant Declaration	Low (Use as a last resort)

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. Note: The PHA must document in the tenant file, the reason third party verification was not available.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.			
	Use of HUD systems, when available.				
<p>Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form.</p> <p>Effective Date of Employment: The PHA should always confirm start and termination dates of employment.</p>					

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may accept an original SSA Notice from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
	Use of HUD systems, when available.				
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	Note: The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. Notarized statement should include a perjury penalty statement.
Note: The PHA must not pass verification costs along to the participant.					
Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)					



**Exhibit 7-2: Summary of Documentation Requirements for Noncitizens
[HCV GB, pp. 5-9 and 5-10]**

<ul style="list-style-type: none"> • 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. 	
<p>Elderly Noncitizens</p> <ul style="list-style-type: none"> • 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. 	
<p>All other Noncitizens</p> <ul style="list-style-type: none"> • Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below. 	
<ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> • “Admitted as a Refugee Pursuant to Section 207” • “Section 208” or “Asylum” • “Section 243(h)” or “Deportation stayed by Attorney General” • “Paroled Pursuant to Section 221 (d)(5) of the USCIS” 	<ul style="list-style-type: none"> • Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> • A final court decision granting asylum (but only if no appeal is taken); • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90); • A court decision granting withholding of deportation; or • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
<ul style="list-style-type: none"> • Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. 	<ul style="list-style-type: none"> • Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.
<ul style="list-style-type: none"> • 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 <i>Federal Register</i> 	

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the basis of the legal relationship between the SHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require the SHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the SHA may require additional inspections in accordance with SHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and the SHA's policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes the SHA's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease will be for a period of 12 months. The lease will be renewed automatically for another 12-month term, except that the SHA shall not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information, when applicable, as well as the PHA's policies governing leasing issues.

8-I.B. LEASE ORIENTATION

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

Orientation Agenda

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

- A copy of the lease
- A copy of the SHA's grievance procedure
- A copy of the house rules
- A copy of the SHA's schedule of maintenance charges
- A copy of the SHA Pet Policy
- A copy of the SHA Housekeeping Policy
- A copy of the pamphlet *Protect Your Family From Lead in Your Home*
- A copy of *Things You Should Know* (HUD-1140-OIG)

Topics to be discussed will include:

- Applicable deposits and other charges
- Review and explanation of lease provisions
- Unit maintenance and work orders
- The SHA's reporting requirements
- Explanation of occupancy forms
- Community service requirements
- Family choice of rent
- Orientation to the community

8-I.C. EXECUTION OF LEASE

The initial term of the lease will be for 12 months. The lease will renew automatically for 12-month terms. Because the lease automatically renews for terms of 12 months, an annual signing process is not required.

The lease will be executed by the tenant and the SHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one SHA unit to another.

The lease will state the composition of the household as approved by the SHA (family members and any SHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the SHA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to SHA assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the participant family member.

The following provisions govern lease execution and amendments:

- A lease is executed at the time of admission for all new tenants.
- A new lease is executed at the time of the transfer of a tenant from one SHA unit to another (with no change in reexamination date).
- 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.
- Lease signers must be persons legally eligible to execute contracts.
- 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.
- Changes to tenant rents are made upon the preparation and execution of a "Notice of Rent Adjustment" by the SHA, which becomes an attachment to the lease. Documentation will be included in the tenant file to support proper notice.
- Households that include a Live-In Aide are required to execute a lease addendum authorizing the arrangement and describing the status of the attendant.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the SHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The SHA may modify its lease from time to time. However, the SHA will give residents at least 30 days advance notice of the proposed changes and an opportunity to comment on the changes. The SHA will also consider any comments before formally adopting the new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family will be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations will be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions, and will be given an opportunity to present written comments. The notice will be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective they will be publicly posted in a conspicuous manner in the project office and they will be furnished to applicants and tenants on request [24 CFR 966.5].

When the SHA proposes to modify or revise schedules of special charges or rules and regulations, the SHA will post a copy of the notice in the central office and deliver a copy to an adult member of each household. Documentation of proper notice will be included in each resident file.

Other Modifications

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and SHA will be required to initial and date the change.

Written SHA approval is required for the addition of any member to the household. No request to add an adult member to the household will be approved until the SHA successfully concludes eligibility and suitability screening.

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

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

Residents must pay a security deposit to the SHA at the time of admission. The amount of the security deposit is \$250 and must be paid in full prior to occupancy.

The SHA may permit installment payments of security deposits when a new tenant demonstrates a financial hardship to the satisfaction of the SHA. However, no less than one-half the required deposit must be paid before occupancy. The remainder of the security deposit must be paid within 90 days.

The SHA will hold the security deposit for the period the family occupies the unit. The SHA will not use the security deposit for rent or other charges while the resident is living in the unit. Within 15 days of move-out and tenant's notification of new address, the SHA will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The 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 SHA. All keys to the unit must be returned to the Management upon vacating the unit.

The SHA will provide the resident (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 within 10 business days of the move-out inspection. If the resident disagrees with the amount charged, the SHA will provide a meeting to discuss the charges.

If the resident transfers to another unit, the SHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by the SHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease will specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA will give written notice stating any change in the amount of tenant rent and when the change is effective.

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

If a family's tenant rent changes, the SHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

The lease provides for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

Late payment fees are not due and collectible until two weeks after the SHA gives written notice of the charges. The written notice is considered an adverse action, and will meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action will identify the specific grounds for the action and inform the family of their right for a hearing under the SHA grievance procedures. The SHA will not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

If the family fails to pay their rent by the fifth day of the month, and the SHA has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises. If the 5th falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of \$50.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the SHA shall not take action for nonpayment of the fee until the conclusion of the grievance process.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of \$50.00 will be charged to the family. The fee will be due and payable 14 days after billing.

Excess Utility Charges

In cases where the SHA charges the tenant for consumption of excess utilities, the lease will state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities will occur only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference will be publicly posted in a conspicuous manner in the development office and will be furnished to applicants and tenants on request [24 CFR 966.5].

The lease will provide that charges for excess utility consumption are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and will meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action will identify the specific grounds for the action and inform the family of their right for a hearing under the SHA grievance procedures. The SHA will not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

When applicable, families will be charged for excess utility usage according to the SHA's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the SHA shall not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

The SHA charges the tenant for maintenance and repair beyond normal wear and tear. The lease states the basis for the determination of such charges [24 CFR 966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference will be publicly posted in a conspicuous manner in the development office and will be furnished to applicants and tenants on request [24 CFR 966.5].

The lease will provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action, and will meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action will identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The SHA will not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

When applicable, families will be charged for maintenance and/or damages according to the SHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the

SHA shall not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

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PART II: INSPECTIONS

8-II.A. OVERVIEW

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

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease requires the SHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the SHA and the resident, will be provided to the tenant and be kept in the resident file.

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

Move-Out Inspections [24 CFR 966.4(i)]

The SHA will inspect the unit at the time the resident vacates the unit and will allow the resident to participate in the inspection if he or she wishes, unless the tenant vacates without notice to the SHA. The SHA will provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

When applicable, the SHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 10 business days of conducting the move-out inspection.

Annual Inspections

Under the Public Housing Assessment System (PHAS), the SHA is required to inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS) [24 CFR 902.43(a)(4)].

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame

Supervisory quality control inspections will be conducted in accordance with the SHA's maintenance plan, but in any case, at least 5% of the units will be subject to Quality Control inspections.

The Property Manager will also conduct periodic inspections to determine the condition of the unit and to identify problems or issues in which the SHA can be of service to the family.

Special Inspections

SHA staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists
- Periodic or special review of SHA housing by HUD representatives or local government officials

Other Inspections

Building exteriors, grounds, common areas and systems will be inspected according to the SHA's maintenance plan and to determine hazardous conditions as well as to assist in budget preparation.

The SHA inspector will periodically conduct windshield and/or walk-through inspections to determine whether there may be lease violations, adverse conditions or local code violations.

Playground inspections are conducted quarterly to determine playground safety.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The SHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the SHA entry delivered to Tenant or to any adult member of the household residing in the dwelling unit, or sent by prepaid first-class mail addressed to Tenant.

- The SHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.
- For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.
- Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the SHA to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]

The SHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the SHA will leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

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

Attendance at Inspections

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

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

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

8-II.D. INSPECTION RESULTS

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

If a unit fails inspection due to housekeeping or tenant-caused damages, the resident will be given 30 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 UPCS compliance, needed repairs will be completed by the SHA.

- Residents who "fail" an inspection due to housekeeping will be issued a Housekeeping Citation, and a reinspection will be conducted within five (5) working days by housing management staff.
- If the family fails to comply with the reinspection it can result in lease termination. Or if the family is issued another Housekeeping Citation within five days of the reinspection, the family will be summoned for a lease violation conference.
- Citations will be issued to residents who purposely and for convenience disengage the unit's smoke detector.
- Repeated citations will be considered a violation of the lease.

Inspection report will indicate whether required corrections are to be charged to the resident or covered by the SHA. To the extent feasible, required corrections will be repaired by the SHA within five (5) days of the inspection date. Resident will be notified at least two (2) days before the date of the required repairs.

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 inspection will be scheduled for a lease violation conference.

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the SHA of the damage, and the SHA must make repairs within a reasonable time frame.

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

If the SHA cannot make repairs quickly to damage that renders the unit uninhabitable, the SHA must offer the family standard alternative accommodations. If the SHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

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

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

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Backed-up sewage
- Inoperable smoke detectors
- Units with elderly residents in which the SHA-owned air conditioner or heater (seasonal) or refrigerator is inoperable
- Blocked or unusable emergency fire exits

- Expired fire extinguishers

Non-emergency Repairs

The SHA will correct non-life threatening health and safety defects within 5 business days of the inspection date. If the SHA is unable to make repairs within that period due to circumstances beyond the SHA's control (e.g. required parts or services are not available, weather conditions, etc.) the SHA will notify the family of an estimated date of completion.

The family must allow the SHA access to the unit to make repairs.

Resident-Caused Damages

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.G., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the SHA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

Chapter 9

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

The SHA is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. The SHA has adopted policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements, and will conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the SHA must reexamine income for a family depends on whether the family pays income-based or flat rent. HUD requires the SHA to offer all families the choice of paying income-based rent or flat rent at least annually. The SHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the SHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the SHA's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and SHA policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the SHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the SHA will conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the SHA will conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the SHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point to determine the need for lease enforcement or eviction.

The SHA is required to obtain information needed to conduct reexaminations. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

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

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The SHA has established a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

Generally, the SHA will schedule annual reexaminations to coincide with the family's anniversary date. The SHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, the SHA will perform a new annual reexamination, and the anniversary date will be changed.

The SHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The SHA will obtain information needed to conduct annual reexaminations. How that information will be collected is detailed below.

- Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in

an in-person interview poses a hardship because of a family member's disability, the family should contact the SHA to request a reasonable accommodation.

- Notification of annual reexamination interviews will be sent by first-class mail approximately least 120 days in advance of the anniversary date. The notification will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

The notification shall explain 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 SHA.

If the family does not return the certification, the SHA staff will chose the lower of the two rents.

If the family chooses flat rent, no reexamination will be conducted for 3 years.

- If the family is unable to attend a scheduled interview, the family should contact the SHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the SHA will send a second notification with a new interview appointment time.
- If a family fails to attend two scheduled interviews without SHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a SHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 5 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Collection of Information

The family is required to complete a *Personal Declaration Form* prior to all annual re-certification interviews.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The SHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks shall be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Compliance with Community Service

For families who include nonexempt individuals, the SHA must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the SHA's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the SHA shall make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If the SHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the SHA, but will always allow for the 30-day notice period.
- If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 17.

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

- If the SHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the SHA.
- If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the SHA by the date specified, and this delay prevents the SHA from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS [24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The SHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, on an annual basis, the PHA must also review community service compliance and should have each adult resident consent to a criminal background check.

This part contains the SHA's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

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

Reexamination Policies

In conducting full reexaminations for families paying flat rents, the SHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

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

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the SHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The SHA has established a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

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

In scheduling the annual update, the SHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

Generally, the family will not be required to attend an interview for an annual update. However, if the SHA determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the SHA. The family will have 10 business days to submit the required information to the SHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The SHA will accept required documentation by mail, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, the SHA will send a second written notice to the family. The family will have 5 business days from the date of the second notice to provide the missing information or documentation to the SHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The SHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks shall be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, the SHA will determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the SHA's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and SHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the SHA must process interim reexaminations to reflect those changes. HUD regulations also permit the SHA to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The SHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and SHA policies describing what changes families are required to report, what changes families may choose to report, and how the SHA will process both SHA- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

The SHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

Collection of Information

The family is required to complete a *Personal Declaration Form* prior to all interim re-certification interviews.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require SHA approval. However, the family is required to promptly notify the SHA of the addition [24 CFR 966.4(a)(1)(v)].

The family must inform the SHA of the birth, adoption or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request SHA approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The SHA has adopted policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which SHA consent will be given or denied. Under such policies, the factors considered by the SHA shall include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The SHA's obligation to make reasonable accommodation for handicapped persons.

Families must request SHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 7 consecutive days or a total of 14 cumulative calendar days during any 12 month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the SHA prior to the individual moving into the unit.

The SHA will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit (under the transfer policy in Chapter 12), unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the SHA. Exceptions will be made on a case-by-case basis.

The SHA will not approve the addition of a new family or household member unless the individual meets the SHA's eligibility criteria (see Chapter 3).

If the SHA determines that an individual does not meet the SHA's eligibility criteria as defined in Chapter 3, the SHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The SHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

If a family member ceases to reside in the unit, the family must inform the SHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the SHA within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the SHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

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

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

SHA-initiated Interim Reexaminations

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

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

- For families receiving the Earned Income Disallowance (EID), the SHA will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the second 12 month exclusion period (50 percent phase-in period).
- If the family has reported zero income, the SHA will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the SHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the SHA will conduct an interim reexamination.
- The SHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The SHA has adopted policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

Families are required to report all increases in earned income, including new employment, within 5 business days of the date the change takes effect.

The SHA will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's rent will change as a result of the increase. In all other cases, the SHA will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The SHA will process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, the SHA will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, the SHA will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family may notify the SHA of changes either orally or in writing. If the family provides oral notice, the SHA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the SHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the SHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 5 business days of receiving a request from the SHA. This time frame may be extended for good cause with SHA approval. The SHA will accept required documentation by mail, by fax, or in person. **An exception will be made for TANF recipients who obtain employment. In such cases, families will have to report within 10 days of receipt of the Notice of Action from TANF that shows the full adjustment for employment income.**

Effective Dates

The SHA will make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.

- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

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PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the SHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations will reflect any changes in the SHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

Unless the SHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the SHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the SHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the SHA's schedule of Utility Allowances for families in the SHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the SHA will notify the tenant that the tenant may ask for an explanation stating the specific grounds of the SHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the SHA's grievance procedure [24 CFR 966.4(c)(4)].

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the SHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the SHA may discover errors made by the SHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

Chapter 10

PETS

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

INTRODUCTION

This chapter explains the SHA's policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the SHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the SHA.

The chapter is organized as follows:

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

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

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

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

PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal may be denied, and also establishes standards for the care of assistance animals.

Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability, or that provide emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals – often referred to as “service animals,” “assistive animals,” “support animals,” or “therapy animals” – perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision
- Alerting individuals who are deaf or hearing impaired
- Providing minimal protection or rescue assistance
- Pulling a wheelchair
- Fetching items
- Alerting persons to impending seizures
- Providing emotional support to persons with disabilities who have a disability-related need for such support

Assistance animals that are needed as a reasonable accommodation for persons with disabilities are not considered pets, and thus, are not subject to the SHA’s pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person’s disability and his or her need for the animal [PH Occ GB, p. 179].

The SHA shall not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

However, the SHA’s refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, is not considered a violation of Section 504 of the Rehabilitation Act and the Fair Housing Act if [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and the SHA approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

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 SHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the SHA determines that no such accommodation can be made, the PHA may withdraw the approval of a particular assistance animal.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

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

10-II.A. OVERVIEW

The purpose of this pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

The SHA requires registration of the pet with the PHA [24 CFR 960.707(b)(5)]. Pets must be registered with the PHA before they are brought onto the premises.

- Registration includes certificate signed by a licensed veterinarian or State/local authority that the pet:
 - Has received all inoculations required by State or local law.
 - Has no communicable disease(s), and
 - Is pest-free.
- Registration must be renewed and will be coordinated with the annual reexamination date.
 - Proof of license and inoculation will be submitted at least 30 days prior to annual reexamination.
- Each pet owner must provide two color photographs of their pet(s).
- Each pet owner must display a “Pet Here” sticker, provided by the SHA, which will be displayed on the front door of the unit at all times.
- Approval for the keeping of a pet shall not be extended pending the completion of these requirements.

Refusal to Register Pets

If the SHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the SHA’s decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the PHA’s grievance procedures. The notice of refusal may be combined with a notice of pet violation

The SHA will refuse to register a pet if:

- The pet is not a *common household pet* as defined in Section 10-II.C. below
- Keeping the pet would violate any pet restrictions listed in this policy or house rules;

- The pet owner fails to provide complete pet registration information, or fails to update the registration annually
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order
- The resident fails to provide complete pet registration information;
- The resident fails to update the registration annually;
- The SHA 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 resident’s ability to comply with the provisions of the lease.

Pet Agreement

Residents who have been approved to have a pet must enter into a pet agreement with the SHA, or the approval of the pet will be withdrawn. The Pet Agreement will become an addendum to the lease and violations of the Pet Agreement may lead to termination of the lease.

The pet agreement is the resident’s certification that he or she has received a copy of the SHA’s pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with the following requirements:

- Agree that the resident is responsible and liable for all damages caused by their pet(s)
- Residents/pet owners must comply with all city/county ordinances concerning pets.
- Noncompliance with the SHA’s pet policy and applicable house rules may result in the withdrawal of SHA approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

The SHA has established reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the SHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

The SHA shall not require pet owners to have any pet’s vocal cords removed.

Definition of “Common Household Pet”

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

Types of Pets Allowed

Only the following types of pets are allowed:

1. Dogs

- Maximum Number: 1
- Maximum adult weight: 25 pounds
- Must be housebroken.
- Must be spayed or neutered – verified by a veterinarian.
- Must have all required inoculations – owner must present certification initially and annually.
- Must be quartered inside the resident’s unit – no doghouses are allowed on the premises.
- Must be kept on a leash and controlled by a responsible individual when taken outside.
- Dishes or containers of food and water will be located in the owner’s apartment.
- Must be licensed as specified now or in the future by State law and local ordinance.
- Any litter and/or defecation resulting from the pet must be removed immediately from the unit and/or premises.
- \$300 deposit is required (\$50 is non-refundable).

2. Cats

- Maximum Number: 1
- Maximum adult weight: 25 pounds
- Must be declawed.
- Must be spayed or neutered – verified by a veterinarian.
- Must have all required inoculations – owner must present certification initially and annually.
- Must be trained to use a litter box or other waste receptacle.
- Must be kept on a leash and controlled by a responsible individual when taken outside.

- Dishes or containers of food and water will be located in the owner's apartment.
- Must be licensed as specified now or in the future by State law and local ordinance.
- Any litter and/or defecation resulting from the pet must be removed immediately from the unit and/or premises.
- \$300 deposit is required (\$50 is non-refundable).

3. **Birds**

- Maximum Number: 2
- Must be enclosed in a cage at all times and not allowed to fly throughout the apartment unit.
- Cages must be kept clean and all waste must be disposed of immediately and properly.

4. **Fish**

- Maximum aquarium size: 10 gallons
- Must be maintained on an approved stand.

5. **Rodents (rabbit, guinea pig, hamster, or gerbil ONLY)**

- Maximum Number: 2
- Must be enclosed in an acceptable cage at all times.
- Must have all inoculations as specified now or in the future by State law or local ordinance.

Types of Pets Not Allowed

The following are **NOT** considered "common household pets" and will not be approved as pets for SHA residents:

- Domesticated dogs that exceed 25 pounds (animals certified to assist persons with disabilities are exempt from this weight limitation).
- Vicious or intimidating pets. Dog breeds including Pit Bull, Rottweiler, Chow, Boxer, Doberman, Dalmatian, and German Shepard are considered vicious or intimidating breeds and are not allowed.
- Animals who would be allowed to produce offspring for sale.
- Wild, feral, or any other animals that are not amenable to routine human handling.
- Any poisonous animals of any kind.

- Fish in aquariums exceeding ten gallons in capacity.
- Primates.
- Animals whose climatological needs cannot be met in the unaltered environment of the individual dwelling unit.
- Pot-bellied pigs.
- Ferrets or other animals whose natural protective mechanisms pose a risk of serious bites and/or lacerations to small children.
- Hedgehogs or other animals whose protective instincts and natural body armor produce a risk of serious puncture injuries to children.
- Chicks, turtles, or other animals that pose a significant risk of salmonella infection to those who handle them.
- Pigeons, doves, mynahs, psittacines, and birds of other species that are hosts to the organisms that cause psittacosis in humans.
- Snakes or other kinds of reptiles.
- Any animal not permitted under state or local law or code

Number of Pets

Residents may own a maximum of 1 dog OR 1 cat. Residents may also own not more than one other type of pet (rodents, birds, fish) not exceeding the numbers specified above.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

Other Requirements

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with SHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

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 other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

Doghouses are not allowed outside the apartment unit.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

Pets are never allowed in the following areas:

- SHA playgrounds
- SHA day care centers
- SHA management offices
- SHA community centers
- SHA recreation center areas

With the exception of common areas as described above, the SHA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the SHA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

All fecal matter deposited by the pet(s) must be promptly and completely removed from all common areas. Failure to do so will result in a Pet Waste Removal charge of \$50. The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by the SHA for the storage and disposal of garbage.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner. Failure to do so will result in a Pet Waste Removal charge.
- Litter shall not be disposed of by being flushed through a toilet.

- Litter boxes shall be kept inside the resident's dwelling unit.

Dishes or containers for food and water will be located in the pet owner's apartment. Food and/or table scraps will not be deposited anywhere outdoors, including the owner's yard.

All pets are to be fed inside the apartment. Feeding is not allowed on porches, sidewalks, patios, or other outside areas.

Pet owners must exercise effective flea control. Such flea control measures must not produce toxic hazards to children who may come into contact with treated animals.

Pet owners must recognize that other residents may have chemical sensitivities or allergies related to pets, and/or may be easily frightened or disoriented by animals. Pet owners must agree to exercise courtesy with respect to other residents.

Alterations to Unit

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

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

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

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

When outside the dwelling unit, all pets must be on a leash or in an animal transport enclosure and under the control of a responsible individual.

No pet (excluding fish) shall be left unattended in any apartment for a period in excess of 24 hours.

Responsible Parties

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the SHA and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

Pets that are not owned by a tenant are not allowed on the premises. Residents shall not feed any stray animals; doing so, or keeping stray or unregistered animals will be considered having a pet without permission.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by the SHA.

Pet Rule Violations

The authorization of a common household pet may be revoked at any time subject to the SHA's grievance procedure if the pet becomes destructive or a nuisance to others or if the tenant fails to comply with this policy.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The Notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the resident/pet owner has ten (10) days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation;
- That the resident/pet owner is entitled to be accompanied by another person of his or her choice at the meeting; and
- 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.
- That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

If the resident/pet owner is not satisfied with the results of the meeting to discuss the violation, they can request a grievance hearing in accordance with the SHA's grievance procedures.

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

Notice for Pet Removal

If the 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 SHA, the SHA may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for the SHA's determination of the pet rule that has been violated
- The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

The SHA has the right to seek impoundment and sheltering of any animal found to be maintained in violation of housing rules, pending resolution or any dispute regarding such violation, at its owner's expense. The resident shall be responsible for any impoundment fees, and the SHA accepts no responsibility for pets so removed.

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. This includes pets that are poorly cared for or have been left unattended for over 24 hours.

If the responsible party is unwilling or unable to care for the pet, or if the SHA after reasonable efforts cannot contact the responsible party, then the SHA may contact the appropriate State or local agency and request the removal of the pet, or the SHA may place the pet in a proper facility for up thirty- (30) days. If there is no other solution at the end of the 30 days, the SHA may donate the pet to a humane society. Cost of this professional care will be borne by the pet owner.

If the pet is removed as result of any aggressive act on the part of the pet the pet will not be allowed back on the premises.

Termination of Tenancy

The SHA may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified
- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Termination of the Lease Agreement is subject to the SHA's grievance procedures.

Emergencies

SHA has the right to enter dwelling unit when there is evidence that an animal left alone in danger of distress, or is creating a nuisance.

The SHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the SHA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

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PART III: PET DEPOSITS AND FEES

10-III.A. OVERVIEW

This part describes the SHA's policies for pet deposits and fees for those who reside in general occupancy developments. The SHA reserves the right to change or increase the required deposit by amendment to these rules.

10-III.B. PET DEPOSITS

The SHA requires a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

The refundable Pet Deposit will be placed in a non-bearing account at the financial institution in the bank designated as a depository for SHA funds. The SHA will comply with such laws as to retention of the deposit and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

Pet owners are required to pay a pet deposit of \$300 (\$50 of which is non-refundable) in addition to any other required deposits. The deposit must be paid in full before the pet is brought on the premises.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

The SHA will refund the refundable portion (maximum of \$250) of the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 15 days of move-out or removal of the pet from the unit.

The SHA will refund the unused portion of the deposit to the resident within fifteen (15) days after the resident moves from the development or no longer owns or has a pet present in the dwelling unit.

The resident will be billed for any amount that exceeds the pet deposit.

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

The SHA 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.

10-III.C. NON-REFUNDABLE NOMINAL PET FEE

The SHA currently does not require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

10-III.D. OTHER CHARGES

Pet-Related Damages During Occupancy

The pet owner will be responsible for reasonable expenses directly related to the presence of the animal or pet on the premises, including, but not necessarily limited to:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the project
- The cost of animal care facilities if needed

These charges are due and payable within fifteen (15) days of written notification.

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

Charges for violation of PHA pet rules shall be treated like charges for other violations of the lease and PHA tenancy rules.

- A separate pet waste removal charge of \$50.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.
- Such charges will be due and payable 14 calendar days after billing.
- Charges for pet waste removal are not part of rent payable by the resident.

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all non-exempt adults living in public housing.

This chapter describes HUD regulations and SHA policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: PHA Implementation of Community Service. This part provides SHA policy regarding SHA implementation and program design.

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PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). The SHAs and residents must comply with the community service requirement, effective with SHA fiscal years that commenced on or after October 1, 2000. Per 903.7(1)(1)(iii), the PHA Plan must contain a statement of the how the SHA will comply with the community service requirement, including any cooperative agreement that the SHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the SHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of the SHA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

If an individual skips a month, they may, with SHA permission, make up the time in the following month. The SHA will make the determination of whether to permit a deviation from the schedule.

Individuals who have special circumstances which they believe will prevent them from completing the required community service hours for a given month, must notify the SHA in writing within 5 business days of the circumstances becoming known. The SHA will review the request and notify the individual, in writing, of its determination within 10 business days. The SHA may require those individuals to provide documentation to support their claim.

Definitions

Exempt Individual [24 CFR 960.601(b)]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service

provisions

- Is a primary caretaker of such an individual
- Is engaged in work activities
 - The SHA will consider 20 hours per week as the minimum number of hours needed to qualify for a work activity exemption.
- 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 of Florida, 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 of Florida, 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.

Community Service [PH Occ GB, p. 174]

Community service is volunteer work which includes, but is not limited to:

- Work at a local institution including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization that serves PHA residents or their children such as: Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H programs, PAL, Garden Center, community clean-up programs, beautification programs, other youth or senior organizations
- Work at the SHA to help improve physical conditions
- Work at the SHA to help with children's programs
- Work at the SHA to help with senior programs
- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems, serving as an officer in a resident organization, serving on the resident advisory board
- Caring for the children of other residents so they may volunteer
- Economic Self-Sufficiency Program [24 CFR 5.603(b)] For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as: Any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families. These economic self-sufficiency programs can include job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeships (formal or informal), or any other program necessary to ready a participant to work (such as substance abuse or mental health treatment).

NOTE: Political activity is excluded for purposes of eligible community service activities.

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalency, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of child care services to an individual who is participating in a community service program
- Economic Self-Sufficiency Program

Notification Requirements [24 CFR 960.605(c)(2)]

At the time of admission and prior to the annual reexamination, the SHA will give each family written notice that presents:

- A written description of the community service requirement
- The process for claiming status as an exempt person, and the process for SHA verification of exempt status
- SHA's identification of family members who are subject to the service requirement, and the family members who are exempt
- A statement advising the family that failure to comply with the community service requirement will result in ineligibility for continued occupancy at the time of any subsequent annual reexamination

The SHA will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

On an annual basis, at the time of lease renewal, the SHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The SHA will review and verify family compliance with service requirements annually at least sixty (60) days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

- Where the lease term does not coincide with the effective date of the annual reexamination, the SHA will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the SHA will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

At least 60 days prior to lease renewal, the SHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the SHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the SHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

The SHA will review resident family compliance with service requirements annually at least thirty days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the SHA will verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

Approximately 60 days prior to the end of the lease term, the SHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the SHA required documentation form(s).

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

approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status Between Annual Determinations

Exempt to Non-Exempt Status

- If an exempt individual becomes non-exempt during the twelve month lease term, it is the family's responsibility to report this change to the SHA within 10 business days.
- Within 10 business days of a family reporting such a change, or the SHA determining such a change is necessary, the SHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.
- The effective date of the community service requirement will be the first of the month following 30 day notice.

Non-Exempt to Exempt Status

- If a non-exempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the SHA within 10 business days. Any claim of exemption will be verified by the SHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.
- Within 10 business days of a family reporting such a change, or the SHA determining such a change is necessary, the SHA will provide the family written notice that the family member is no longer subject to the community service requirement, if the SHA is able to verify the exemption.
- The exemption will be effective immediately.

Addition/Deletion of Family Members to the Lease

- When there are additions/deletions to the lease, the SHA will screen to determine exempt or non-exempt status.
- The SHA will notify the family in writing of its determination and the mechanism by which any non-exempt family member may comply with the Community Service requirement.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4)]

The SHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

All family members who claim they are exempt from the community service requirement will be

required to sign the community service exemption certification form found in Exhibit 11-3. The SHA will provide a completed copy to the family and will keep a copy in the tenant file.

The SHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The SHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the SHA's determination, s/he can dispute the decision through the SHA's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

If qualifying community service activities are administered by an organization other than the SHA, a family member who is required to fulfill a service requirement must provide certification to the SHA, signed by the organization, that the family member has performed the qualifying activities [24 CFR 960.607].

- If anyone in the family is subject to the community service requirement, the SHA will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.
- Each individual who is subject to the requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.
- Families will be required to submit the documentation to the SHA, upon request by the SHA.
- If the SHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the SHA has the right to require third-party verification.

11-I.E. NONCOMPLIANCE

Initial Noncompliance

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

If the tenant or another family member has violated the community service requirement, the SHA will not renew the lease upon expiration of the twelve-month term of the lease, unless the tenant and any other noncompliant family member enter into a written agreement with the SHA. Under this agreement the tenant or noncompliant family member must agree to cure the noncompliance by completing the additional hours of community service or economic self-sufficiency needed to make up the total number of hours required, over the twelve-month term of the new lease. In addition, all other members of the family who are subject to the service

requirement must be currently complying with the service requirement or must no longer be residing in the unit [24 CFR 960.607(c)].

Notice of Initial Noncompliance [24 CFR 960.607(b)]

If the SHA determines that there is a family member who is required to fulfill a service requirement, but who has failed to comply with this obligation (noncompliant resident), the SHA will notify the tenant of this determination.

The notice to the tenant will briefly describe the noncompliance. The notice will state that the SHA will not renew the lease at the end of the twelve-month lease term unless the tenant, and any other noncompliant resident, enter into a written agreement with the SHA to cure the noncompliance, or the family provides written assurance satisfactory to the SHA that the tenant or other noncompliant resident no longer resides in the unit.

The notice will also state that the tenant may request a grievance hearing on the SHA's determination, in accordance with the SHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the SHA's nonrenewal of the lease because of the SHA's determination.

- The notice of initial noncompliance will be sent at least 45 days prior to the end of the lease term.
- The family will have 10 business days from the date of the notice of noncompliance to enter into a written agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.
- If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the SHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.
- If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the SHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

Opportunity to Cure Non-Compliance

The SHA shall offer the Head of Household and any other non-compliant family member the opportunity to enter into a Compliance Agreement prior to the anniversary date of the lease. The agreement shall state that the non-compliant family member agrees to contribute to community service for as many hours as needed to comply with the community service requirement or enter into an economic self-sufficiency program for the specified period.

The opportunity to cure non-compliance shall occur within the 12-month period beginning on the date the Compliance Agreement is executed. In the event that the "cure period" and the new 12-month period run concurrently, community service or self-sufficiency hours accumulated pursuant to the Compliance Agreement shall count toward the delinquent hours only. At no time

will a resident under a Compliance Agreement be allowed to “double count” community service hours.

If either the Head of Household or any other non-compliant family member fails to accept the terms of the agreement, the SHA shall exercise its right to declare the family in non-compliance and the SHA will not renew the lease.

Continued Noncompliance [24 CFR 960.607(b)]

If, after the 12 month cure period, the family member is still not compliant, the SHA will terminate tenancy of the entire family, according to the SHA’s lease, unless the family provides documentation that the noncompliant resident no longer resides in the unit.

- Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family’s termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.
- The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.
- If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the SHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.
- If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family’s lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Contained herein is the SHA policy for administration of the community service and economic self-sufficiency requirements for public housing. The SHA, to the extent possible, shall utilize an effective, viable Community Service program to provide residents the opportunity to engage in the community and to develop competencies.

SHA Implementation of Community Service

The SHA shall not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by SHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

The SHA will notify its insurance company if residents will be performing community service at the SHA. In addition, the SHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, the SHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

SHA Program Design

The SHA shall administer qualifying community service or economic self-sufficiency activities directly, and/or make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

- The SHA will attempt to provide the broadest choice possible to residents as they choose community service activities.
- The SHA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. The SHA will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.
- The SHA 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 SHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.
- Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the SHA Plan.
- The SHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all non-exempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – volunteer work which includes, but is not limited to:

- Work at a local institution, including but not limited to: school, child care center, hospital, hospice, recreation center, senior center, adult day care center, homeless shelter, indigent feeding program, cooperative food bank, etc.
- Work with a nonprofit organization such as: Parks and Recreation, United Way, Red Cross, Volunteers of America, Boy Scouts, Girl Scouts, Boys or Girls Clubs, 4-H Program, PAL, Garden Center, community clean-up programs, beautification programs, other counseling, aid, youth or senior organizations
- Work at the housing authority to help with litter control
- Work at the housing authority to help with children's programs
- Work at the housing authority to help with senior programs
- Helping neighborhood groups with special projects
- Working through a resident organization to help other residents with problems
- Serving as an officer in a resident organization
- Serving on the Resident Advisory Board
- Caring for children of other residents so they may volunteer
- Economic Self-Sufficiency Program

NOTE: Political activity is excluded.

Self-Sufficiency Activities – activities that include, but are not limited to:

- Job readiness programs
- Job training programs
- GED classes
- Substance abuse or mental health counseling
- English proficiency or literacy (reading) classes
- Apprenticeships

- Budgeting and credit counseling
- Any kind of class that helps a person toward economic independence
- Student status at any school, college or vocation school

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individual
- Is working at least 20 hours per week
- Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program including a State-administered welfare-to-work program
- Is a member of a family receiving assistance, benefits or services under TANF or any other State welfare program and has not been found to be in noncompliance with such program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month. The housing authority will make the determination of whether to allow or disallow a deviation from the schedule based on a family's written request.
3. Family obligation:
 - At lease execution, all adult members (18 or older) of a public housing resident family must:
 - Sign a certification that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
 - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
 - Upon written notice from the SHA, non-exempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
 - If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, as a condition of continued occupancy.

4. Change in exempt status:
 - If, during the twelve (12) month lease period, a non-exempt person becomes exempt, it is his or her responsibility to report this to the SHA and provide documentation of exempt status.
 - If, during the twelve (12) month lease period, an exempt person becomes non-exempt, it is his or her responsibility to report this to the SHA. Upon receipt of this information the SHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the SHA will:
 - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
 - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. The SHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
3. Although exempt family members will be required to submit documentation to support their exemption, the SHA will verify the exemption status in accordance with its verification policies. The SHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the SHA's grievance procedure if they disagree with the SHA's determination.
4. Noncompliance of family member:
 - At least sixty (60) days prior to the end of the 12-month lease term, the SHA will begin reviewing the exempt or non-exempt status and compliance of family members;
 - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the SHA finds the family member to be noncompliant, the SHA will not renew the lease unless:
 - The head of household and any other noncompliant resident enter into a written agreement with the SHA, to make up the deficient hours over the next twelve (12) month period; or
 - The family provides written documentation satisfactory to the SHA that the noncompliant family member no longer resides in the unit.
 - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the SHA that the noncompliant family member no longer resides in the unit;
 - The family may use the SHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident

Date

Resident

Date

Resident

Date

Resident

Date

DRAFT

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(I) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term “disability” means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term “aged, blind, or disabled individual” means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

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

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the SHA's community service requirement for the following reason:

- 62 years of age or older. *(Documentation of age in file)*
- Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement. *(Documentation of HUD definition of disability in file)*

Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

Signature of Family Member

Date

- Is the primary caretaker of such an individual in the above category. *(Documentation in file)*
- Is working at least 20 hours per week. *(Employment verification in file)*
- Is participating in a welfare-to-work program. *(Documentation in file).*
- Meets the requirements for being exempted from having to engage in a work activity under TANF or any other State welfare program, including a State-administered welfare-to-work program *(Documentation in file)*
- Is a member of a family receiving assistance, benefits or services under TANF or any other State welfare program and has not been found to be in noncompliance with such program. *(Documentation in file)*

Signature of Family Member

Date

Signature of SHA Official

Date

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the SHA's transfer policy, based on HUD regulations, HUD guidance, and SHA policy decisions.

This chapter describes HUD regulations and SHA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: SHA Required Transfers. This part describes types of transfers that may be required by the SHA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The SHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant will be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain actions as emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the SHA.

In the case of a genuine emergency, it may be unlikely that the SHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the SHA shall find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is reached.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the SHA will offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

- Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; major fire damage; catastrophic structural defect or breach or building envelope; and serious water leaks.

12-I.C. EMERGENCY TRANSFER PROCEDURES

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the SHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the SHA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the tenant.

12-I.D. COSTS OF TRANSFER

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

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

The SHA will establish a moving allowance based on the typical costs in the community of

packing, moving, and unloading. To establish typical costs, the SHA will collect information from companies in the community that provide these services.

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

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PART II: PHA REQUIRED TRANSFERS

12-II.A. OVERVIEW

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

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

12-II.B. TYPES OF SHA REQUIRED TRANSFERS

The types of transfers that may be required by the SHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the SHA are mandatory for the tenant.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the SHA shall require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

When a non-accessible unit becomes available, the SHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The SHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

The SHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to SHA policy [24 CFR 960.257(a)(4)]. On some occasions, the SHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

The SHA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

- *Overcrowded*: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.
- *Over-housed*: the family no longer qualifies for the bedroom size in which they are

The SHA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the SHA's occupancy standards, when the SHA determines there is a need for the transfer.

The SHA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the SHA that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit the SHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

The SHA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The SHA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A SHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the SHA shall not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

Demolition or Modernization

Whenever a tenant is to be displaced from a public housing unit as a result of planned modernization or demolition activity by the SHA (or comparable action) and is offered the opportunity to relocate to a comparable replacement public housing unit, the SHA may, at its discretion, elect to move the tenant family with its own staff or through private contractors, at no cost to the family. In such cases, the family may be entitled to a moving expense and dislocation allowance in an amount established by the SHA, which shall reflect the reasonable costs of transfers include the cost of packing, moving, and unloading.

If the SHA does not elect to take full responsibility for the tenant's move, the tenant family shall have the option to choose either a reimbursement of actual moving and related expenses up to the SHA's established moving allowance or the applicable fixed moving expense and dislocation allowance at the HUD-approved established rate at the time of the transfer/move. *This policy covers only displacement and not the general unit transfers described on the following page.*

Transfers to Make a Unit Accessible

The SHA will pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2006-13].

Occupancy Standards Transfers

The family will be responsible for bearing all costs of transfers due to occupancy standards.

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PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

To avoid administrative costs and burdens, the SHA will consider only limited types of transfer requests from tenants. The only requests that the SHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the SHA.

Some transfers that are requested by tenants shall be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

The types of requests for transfers that the SHA will consider are limited to requests for transfers:

- To alleviate a serious or life threatening medical condition
- Due to a threat of physical harm or criminal activity (including requests by law enforcement officials)
- Reasonable accommodation
- To a different unit size as long as the family qualifies for the unit according to the SHA's occupancy standards

No other transfer requests will be considered by the SHA.

The SHA will consider the following as high priority transfer requests:

- When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature
- When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the SHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking. *(See Note below)*
- When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first floor unit for a person with mobility impairment, or a transfer to a unit with accessible features

The SHA will consider the following as regular priority transfer requests:

- When a family requests a larger bedroom size unit even though the family does not meet the SHA's definition of overcrowded, as long as the family meets the SHA's occupancy standards for the requested size unit

Transfers requested by the tenant are considered optional for the tenant.

Note on Requests by Law Enforcement Officials

A unit of the law enforcement community (local or national) may a written request or recommendation that a resident family be transferred to a different development/unit for any of the reasons listed below:

- Transfer due to family being the victim of a *hate crime* (as defined in the 7/94 Federal Preference regulations);
- Transfer due to family having cooperated/provided information to the law enforcement community which now puts the family at actual or potential threat of reprisal; or
- Transfer due to a family having experienced threatened or actual acts of violence that the law enforcement Authority believes will escalate.

In these instances, the Executive Director may take action believed to be necessary to avoid the increased threat of violence including, but not necessarily limited to:

- By-passing the regular transfer/occupancy staff or function;
- Maintaining the tenant's file separate from other tenants' files;
- Concealing/changing the identity of the tenant records.

For purposes of this part, *law enforcement Authority* may include, but not necessarily be limited to:

- Local police department
- County sheriff
- US Marshall
- State Police
- Federal Bureau of Investigations (FBI)
- US Drug Enforcement Authority (DEA)

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the SHA has established other standards for considering a transfer request [PH Occ GB, p. 150].

Except where reasonable accommodation is being requested, the SHA will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff
- Owe no back rent or other charges, or have a pattern of late payment
- Are not subject to any ongoing lease termination action by the SHA

- Have no housekeeping lease violations or history of damaging property
- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)
- Are current in meeting their Community Service requirements

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

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

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

12-III.D. SECURITY DEPOSITS

When a family transfers from one unit to another, the PHA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the "old" unit.

12-III.E. COST OF TRANSFER

The resident will bear all of the costs of transfer s/he requests, except that the SHA will pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2006-13].

12-III.F. HANDLING OF REQUESTS

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

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

The SHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family.

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

The SHA will respond within ten (10) business days of the submission of the family's request. If the SHA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, approved transfers shall be placed on a transfer list and handled in the appropriate order. The transfer process shall be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

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

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

Transfers will be processed in the following order:

- 1. Emergency transfers (hazardous maintenance conditions, catastrophe)**
- 2. Demolition, renovation, etc.**
- 3. High-priority transfers**
 - a. Verified medical condition**
 - b. Threat of harm or criminal activity**
 - c. Reasonable accommodation**
- 4. Transfers to make accessible units available**
- 5. Occupancy standards**
 - a. Under-housed**
 - b. Over-housed**
- 6. Other PHA-required transfers**
- 7. Other tenant-requested transfers**

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

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

Transfer Ratio

When the overall occupancy rate drops below 98%, dwelling unit transfers shall be accomplished in a ratio of 1:4. That is, for every four units turned for re-occupancy one unit shall be offered to an existing tenant family as a unit transfer. Otherwise, transfers shall have priority over new admissions.

12-IV.C. TRANSFER OFFER POLICY

Residents will receive one offer of a transfer.

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

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

Pursuant to a mandatory transfer, once a transfer unit has been identified:

- The SHA shall send the Tenant a 30-day Notice of Transfer.
- Tenant is required to move into the dwelling unit made available by the SHA and Tenant has fifteen (15) calendar days following the receipt of the *Notice to Transfer* in which to move. Tenant can receive an extension of up to an additional 15 days, at the Authority's discretion, subject to evidence of an *undue hardship* on the family. If Tenant fails to move by the end of the requisite period, the SHA may file for termination in accordance with the Lease.
- Examples of “*undue hardships*” which may give rise to an approved extension, or even a delay, may include, but not necessarily be limited to:
 - Death in the immediate family
 - Jury sequester
 - Hospitalization
 - Verified medical reason
 - Disability, which may establish the “new” unit as non-suitable to meet the family's housing needs.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

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

- Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the SHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the

principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

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

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

12-IV.E. DECONCENTRATION

If subject to deconcentration requirements, the SHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the SHA’s deconcentration goals. A deconcentration offer will be considered a “bonus” offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will be changed to the first of the month in which the transfer took place.

12-IV.G. NEW LEASE

When a family transfers to another unit, a new lease will be executed.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party in a lease agreement may terminate the lease under certain circumstances. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. The SHA may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which the SHA can terminate a family's lease, and give the SHA authority to determine other reasons. The SHA's policy on terminations also takes state landlord-tenant laws into consideration.

This chapter presents the policies that govern both the family's and SHA's termination of the lease. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the family's voluntary termination of the lease and the requirements the SHA places upon families who wish to terminate their lease.

Part II: Termination by SHA - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the SHA occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements.

Part III: Termination by SHA – Other Authorized Reasons. This part describes the SHA's reasons for lease termination that are not mandated by HUD regulation but for which HUD allows the SHA to terminate. This part also discusses the alternatives that the SHA may consider in lieu of termination, and the criteria the SHA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and SHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered or sent by properly addressed pre-paid first-class mail to the project office.

If a family desires to move and terminate their tenancy with the SHA, they must give at least 30 calendar days advance written notice to the PHA of their intent to vacate. When a family must give less than 30 days notice due to circumstances beyond their control the PHA, at its discretion, may waive the 30 day requirement.

The notice of lease termination must be signed by the head of household, spouse, or cohead.

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PART II: TERMINATION BY PHA – MANDATORY

13-II.A. OVERVIEW

HUD requires the SHA to terminate the lease in certain circumstances. In other circumstances HUD required the SHA to establish provisions for lease termination, but it is still an SHA option to determine, on a case-by-case basis, whether termination is warranted. For those tenant actions or failures to act where HUD requires termination, the SHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the SHA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The SHA will terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The SHA will terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the SHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO PROVIDE SOCIAL SECURITY DOCUMENTATION [24 CFR 5.218(c) and 24 CFR 960.259(a)(3)]

The SHA will terminate the lease if a resident family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age. See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE SHA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

The SHA will terminate the lease if the family fails to accept the SHA's offer of a lease revision to an existing lease, provided the SHA has done the following:

- The revision is on a form adopted by the SHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.

- The SHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The SHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to SHA policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

The SHA will immediately terminate the lease if the SHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of *premises*.

13-II.G. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

The SHA is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring the SHA to terminate the lease under the circumstances described in Part II, HUD requires the SHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require the SHA to terminate for such violations in all cases. The SHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the SHA may, as an alternative to termination, require the exclusion of the culpable household member. The SHA has made policy decisions concerning these options.

In addition, HUD authorizes the SHA to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. The SHA has developed policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the SHA lease. In the development of the terms of the lease, the SHA has considered the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes.

The SHA may consider alternatives to termination and has established policies describing the criteria the SHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the SHA must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that are to be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require the SHA to terminate for such violations in all cases, therefore SHA policies regarding these have been developed.

***Definitions* [24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

- *Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.
- *Dating violence* is defined in section 3-III.F.
- *Domestic violence* is defined in section 3-III.F.
- *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].
- *Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

- *Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.
- *Household* means the family and SHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].
- *Immediate family member* is defined in section 3-III.F.
- *Other person under the tenant’s control* means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant’s control*.
- *Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
- *Stalking* is defined in section 3-III.F.
- *Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease provides that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant’s household or guest, or any such activity engaged in on the premises by any other person under the tenant’s control is grounds for termination.

The SHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant’s household or guest, and any such activity engaged in on the premises by any other person under the tenant’s control.

The SHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

In making its decision to terminate the lease, the SHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the SHA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease provides that a SHA may evict a family when the SHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The SHA will terminate the lease when the SHA determines that a household member is illegally using a drug or the SHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous three years.

The SHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

In making its decision to terminate the lease, the SHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the SHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease provides that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including SHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

The SHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including SHA management staff residing on the premises) or by persons residing in the **immediate vicinity of the premises.**

The SHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

In making its decision to terminate the lease, the SHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the SHA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

The SHA will terminate the lease if the SHA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

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

In making its decision to terminate the lease, the SHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the SHA may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

The SHA will terminate the lease if the SHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The SHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the SHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the SHA may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require the SHA to incorporate certain tenant obligations into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [Pub.L. 109-162].

The SHA will terminate the lease for the following violations of tenant obligations under the lease:

- Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);
- Repeated late payment of rent or other charges. Three late payments within a 12 month period shall constitute a repeated late payment.
- Failure to fulfill the following household obligations:
 - Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
 - Not to provide accommodations for boarders or lodgers
 - To use the dwelling unit solely as a private dwelling for the tenant and the tenant’s household as identified in the lease, and not to use or permit its use for any other purpose
 - To abide by necessary and reasonable regulations promulgated by the SHA for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease

To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, the SHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the SHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes the SHA to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

The Violence against Women Reauthorization Act of 2005 explicitly prohibits the SHA from considering incidents of actual or threatened domestic violence, dating violence, or stalking as "other good cause" for terminating the tenancy or occupancy rights of the victim of such violence.

The SHA will terminate the lease for the following reasons.

- *Fugitive Felon or Parole Violator.* If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

- *Persons subject to sex offender registration requirement.* If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.
- Discovery after admission of facts that made the tenant ineligible
- Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the SHA to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the SHA that such a dwelling unit is available
- Failure to permit access to the unit by the SHA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists
- Failure to promptly inform the SHA of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.
- Failure to abide by the provisions of the SHA pet policy
- If the family has breached the terms of a repayment agreement entered into with the SHA
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.
- If a household member has engaged in or threatened violent or abusive behavior toward SHA personnel.

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

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

In making its decision to terminate the lease, the SHA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the SHA may, on a case-by-case basis, choose not to terminate the lease.

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

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

The family must supply any information or certification requested by the SHA to verify that the family is living in the unit, or relating to family absence from the unit, including any SHA-

requested information or certification on the purposes of family absences. The family must cooperate with the SHA for this purpose.

The family must promptly notify the SHA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, the SHA will terminate the lease for other good cause.

Abandonment

If the family appears to have vacated the unit without giving proper notice (i.e., not occupied or inhabited for a period of fifteen (15) or more days, and signs that the most or all items of value have been removed), the SHA shall notify the tenant in accordance with State law. If necessary, the SHA will secure the unit immediately to prevent vandalism and other criminal activity. The SHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit.

Over-Income Families [24 CFR 960.261 and FR 11/26/04, p. 68786]

The SHA will not evict or terminate the tenancies of families solely because they are over income as long as they were income-eligible at the time of admission.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the SHA may consider exclusion of the culpable household member. Such an alternative can be used, by SHA policy, for any other reason where such a solution appears viable.

The SHA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon SHA request.

Repayment of Family Debts

If a family owes amounts to the SHA, as a condition of continued occupancy, the SHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the SHA of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

The SHA may grounds to terminate a tenancy, but is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the SHA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

The SHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the SHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

The SHA will consider the following factors before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, or stalking
- The effects that the eviction will have on other family members who were not involved in the action or failure to act
- The effect on the community of the termination, or of the SHA's failure to terminate the tenancy
- The effect of the SHA's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities

- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, the family’s recent history, and the likelihood of favorable conduct in the future
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes the SHA to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the SHA will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

For this purpose the SHA will require the tenant to submit evidence of the household member’s current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation [24 CFR 966.7]

If the family includes a person with disabilities, the SHA’s decision to terminate the family’s lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

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

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

The SHA’s eviction actions will be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub.L. 109-162 and 109-271]

The Violence against Women Reauthorization Act of 2005 (VAWA), provides that “criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not

be cause for termination of the tenancy or occupancy rights, if the tenant or immediate family member of the tenant's family is the victim or threatened victim of that abuse.”

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

Definitions

For the definitions of *domestic violence*, *dating violence*, *stalking*, and *immediate family member*, see section 3-III.F.

VAWA and Other Laws [Pub.L. 109-162]

VAWA does not supersede any other federal, state, or local law that provides greater protection to victims of domestic violence, dating violence, or stalking.

Moreover, VAWA does not limit the SHA's duty to honor court orders issued to protect a victim or to address the distribution of property when a family breaks up.

Limits on VAWA Protections [Pub.L. 109-162]

While VAWA prohibits the SHA from using domestic violence, dating violence, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit the SHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, or stalking providing that the SHA does not subject the victim to a more demanding standard than other tenants.
- VAWA does not limit the SHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the SHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

If the tenant wishes to contest the SHA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Victim Notification [Notice PIH 2006-42]

VAWA requires the SHA to notify tenants of their rights under VAWA and to inform them about the existence of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. (For general VAWA notification policies, see section 16-VII.)

The SHA will follow the lease termination notice policy in section 13-IV.D. If the SHA has reason to suspect that the notice might place a victim of domestic violence at risk, it will attempt to deliver the notice by hand directly to the victim. The SHA will use the same caution if it decides to deliver VAWA information to a victim at any other time following an incident of domestic violence.

Victim Documentation [Notice PIH 2006-42]

When a tenant family is facing lease termination because of the actions of a tenant, household member, guest, or other person under the tenant's control and a tenant or immediate family member of the tenant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, or stalking, the SHA will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, the SHA will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The SHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the SHA's written request or must request an extension within that time frame. The SHA may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any SHA-approved extension, the SHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any SHA-approved extension, the SHA will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP.

Terminating or Evicting a Perpetrator of Domestic Violence

In order to protect the rights of a victim of domestic violence who is also a tenant or lawful occupant, the SHA will bifurcate a family's lease and terminate the tenancy of a family member if the SHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the SHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the SHA by the victim in accordance with this section. The SHA will also consider the factors in section 13.III.E. Upon such consideration, the SHA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the SHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If necessary, the SHA will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the SHA may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.

PHA Confidentiality Requirements [Pub.L. 109-162]

All information provided to the SHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, will be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

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

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes the SHA to conduct criminal records checks on public housing residents for lease enforcement and eviction.

The SHA will conduct criminal records checks when it has come to the attention of the SHA, either from local law enforcement or by other means, that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The SHA shall not pass along to the tenant the costs of a criminal records check.

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

In conducting criminal records checks, if the SHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections will be afforded the tenant before any adverse action is taken.

- In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the SHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.
- The family will be given 10 business days from the date of the SHA notice, to dispute the accuracy and relevance of the information. If the family does not contact the SHA to dispute the information within that 10 business day period, the SHA will proceed with the termination action.
- Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination will be in writing. The notice will state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine SHA documents directly relevant to the termination or eviction. If the SHA does not make the documents available for examination upon request by the tenant, the SHA may not proceed with the eviction [24 CFR 996.4(m)].

When the SHA is required to offer the resident an opportunity for a grievance hearing, the notice will also inform the resident of their right to request a hearing in accordance with the SHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the SHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination will state that the tenant is not entitled to a grievance hearing on the termination. It will specify the judicial eviction procedure to be used by the SHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice will also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the SHA, or for a drug-related criminal activity on or off the premises.

- Notice to Tenant will be in writing, delivered to Tenant or to any adult member of the household residing in the dwelling unit, or sent by prepaid first-class mail addressed to Tenant. (For terminations related to domestic violence, see also the policy under "Victim Notification" in section 13-III.F.)
- All notices of lease termination will include a statement of the protection against termination provided by the Violence against Women Reauthorization Act of 2005 (VAWA) for victims of domestic violence, dating violence, or stalking. They will also include a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in section 13-III.F.

Timing of the Notice [24 CFR 966.4(l)(3)(i)]

The SHA will give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent
- 7 calendar days in the case of serious lease violations which pose an immediate threat to the health or safety of other residents, SHA employees, or persons residing in the immediate vicinity of the premises, such as:

- Drug-related criminal activity
- Violent criminal activity
- Threats of violence towards others
- Other serious criminal activity
- 30 calendar days in any other case

The Notice to Vacate that is required under Florida law will be combined with or run concurrently with the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the SHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident will be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice will also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the SHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the SHA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The SHA may only evict the tenant from the unit by instituting a court action.

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the SHA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the SHA will seek the assistance of the court to remove the family from the premises as per state and local law.

The SHA shall not proceed with an eviction action if the SHA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When the SHA evicts an individual or family for criminal activity, including drug-related criminal activity, the SHA will notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

A written record of every termination and/or eviction will be maintained by the SHA at the development where the family was residing, and will 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 (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to SHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the SHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the PHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. This part discusses the SHA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants in the SHA grievance procedure [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances if possible.

Use of Informal Hearing Process

The SHA will only offer informal hearings to applicants for the purpose of disputing denials of admission. The PHA will not make the informal hearing process available to applicants who wish to dispute other SHA actions that adversely affect them.

Notice of Denial [24 CFR 960.208(a)]

The SHA will give an applicant prompt notice of a decision denying eligibility for admission. The notice will contain a brief statement of the reasons for the SHA decision, and will also state that the applicant may request an informal hearing to dispute the decision. The notice will describe how to obtain the informal hearing.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

A request for an informal hearing must be made in writing and delivered to the SHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the SHA's notification of denial of admission.

Except as provided in Section 3-III.F, the SHA will schedule and send written notice of the informal hearing within 10 business days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

The informal hearing will be conducted by a person other than the one who made the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the SHA.

The person conducting the informal hearing will make a recommendation to the SHA, but the SHA is responsible for making the final decision as to whether admission should be granted or denied.

Informal Hearing Decision [PH Occ GB, p. 58]

The SHA will notify the applicant of the SHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the SHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice
- The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in SHA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.
- The validity of the evidence. The SHA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the SHA will uphold the decision to deny admission.
- If the facts prove the grounds for denial, and the denial is discretionary, the SHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The SHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the SHA will consider such accommodations. The SHA will also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the SHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the SHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens will advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the SHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When the SHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the SHA will notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the SHA with a copy of the written request for appeal and proof of mailing.

- The SHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.
- The family must provide the SHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the SHA, of its decision. When the USCIS notifies the SHA of the decision, the SHA will notify the family of its right to request an informal hearing.

The SHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the SHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the SHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The SHA will provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the SHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing at a cost of \$.15 per page. The family must request discovery of SHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the SHA, and to confront and cross-examine all witnesses on whose testimony or information the SHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the SHA, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, the SHA is still obligated to provide oral translation services in accordance with its LEP Plan.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The SHA will not provide a transcript of an audio taped informal hearing.

Hearing Decision

The SHA will provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice will state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

The SHA will retain for a minimum of 5 years the following documents that may have been submitted to the SHA by the family, or provided to the SHA as part of the USCIS appeal or the SHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the SHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the SHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

The SHA has a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any SHA action or failure to act involving the lease or SHA policies which adversely affect their rights, duties, welfare, or status.

The SHA grievance procedure is incorporated by reference in the lease.

The SHA will provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the SHA grievance procedure, and providing an opportunity to present written comments. Residents and resident organizations will have 30 calendar days from the date they are notified by the SHA of any proposed changes in the SHA grievance procedure, to submit written comments to the SHA.

Comments submitted will be considered by the SHA before adoption of any grievance procedure changes by the SHA.

The SHA will furnish a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant’s lease or PHA regulations which adversely affect the individual tenant’s rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the PHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
 - Right of the tenant to be represented by counsel
 - Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
 - A decision on the merits

- **Hearing Officer/Panel** – a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto
- **Tenant** – the adult person (or persons) (other than a live-in aide)
 - Who resides in the unit, and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
 - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Potential grievances could address most aspects of the SHA’s operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the PHA. It is not applicable to disputes between tenants not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

Excluded from the SHA grievance procedure are any grievances concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

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The SHA shall pursue cases of lease termination that are excluded from the grievance procedure directly through state/local judicial eviction procedures. In these cases, the SHA is not required to provide the opportunity for a hearing under the PHA’s grievance procedure as described above.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

Any grievance must be personally presented, either orally or in writing, to the SHA office or to the office of the project in which the complainant resides so that the grievance may be discussed informally and an attempt made to settle it without a hearing.

The SHA will accept requests for an informal settlement of a grievance either orally or in writing, to the SHA office within 10 business days of the grievable event. Within 10 business days of receipt of the request the SHA will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

If a tenant fails to attend the scheduled meeting without prior notice, the SHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

The SHA will prepare a summary of the informal settlement within 5 business days; one copy to be given to the tenant and one copy to be retained in the SHA's tenant file.

The summary will specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

14-III.E. PROCEDURES TO OBTAIN A HEARING [24 CFR 966.55]

Requests for Hearing and Failure to Request [24 CFR 966.55(a), (c), and (d)]

All grievances must be presented in accordance with the informal procedures prescribed above as a condition prior to a grievance hearing. However, if the complainant can show good cause for failure to proceed with the informal settlement process to the hearing officer/panel, the hearing officer/panel may waive this provision [24 CFR 966.55(d)].

The complainant must submit the request in writing for a grievance hearing to the SHA within 5 business days of the tenant's receipt of the summary of the informal settlement discussion [24 CFR 966.55(a)]. The request must specify the reasons for the grievance and the action or relief sought.

If the complainant does not request a hearing, the SHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the SHA's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

Escrow Deposits [24 CFR 966.55(e)]

Before a hearing is scheduled in any grievance involving the amount of rent that the SHA claims is due, the family must pay an escrow deposit to the SHA. When a family is required to make an escrow deposit, the amount is the amount of rent the SHA states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer.

Amounts deposited into the escrow account shall not be considered as acceptance of money for rent during the period in which the grievance is pending.

The SHA will waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income [24 CFR 5.630(b)(3)].

Unless the SHA waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive

the family's right to contest the SHA's disposition of the grievance in any appropriate judicial proceeding.

The SHA will not waive the escrow requirement for grievances involving rent amounts except where required to do so by regulation.

Scheduling of Hearings [24 CFR 966.55(f)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer/panel promptly for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official.

Within 10 business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the PHA.

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.55(b)]

The grievance hearing will be conducted by an impartial person appointed by the SHA, other than the person who made or approved the SHA action under review, or a subordinate of such person.

The SHA will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

Selection Process

- SHA shall annually prepare a list of prospective hearing officers. This list shall be provided to any existing resident organization(s) for such organization's comments or recommendations. SHA shall consider any comments or recommendations by a resident organization.
- The duly recognized jurisdiction-wide resident organization shall be notified if any or replacements additions to the list.
- From this list, a hearing officer shall be selected. Any comments received within the prescribed timeframe will be considered.

Qualifications of Hearing Officers

Any candidate for Hearing Officer must participate in public housing training, and other housing related training, such as fair housing, landlord-tenant law, etc., as a condition of presiding at a grievance hearing.

A *qualified* Hearing Officer means a person with at least a high school diploma and successful completions of the following courses:

- Non-discrimination in Public and Assisted Housing
- Florida State Landlord-Tenant law
- SHA Administration grievance procedures
- Public Housing Admissions and Occupancy
- Public Housing Rent Calculations

The cost of any required training shall be an expense of the agency. Non-staff serving as the hearing officer shall be entitled to a stipend in the amount of \$50.00 (Fifty Dollars) dollars per hearing.

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any SHA documents, including records and regulations that are directly relevant to the hearing. The tenant will be allowed to copy any such document at the tenant's expense. If the SHA does not make the document available for examination upon request by the complainant, the SHA shall not rely on such document at the grievance hearing.
- The tenant will be allowed to copy any documents related to the hearing at a cost of \$.15 per page. The family must request discovery of SHA documents no later than 12:00 p.m. on the business day prior to the hearing.
- The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.
- Hearings may be attended by the following applicable persons:
 - A SHA representative(s) and any witnesses for the SHA
 - The tenant and any witnesses for the tenant
 - The tenant's counsel or other representative
 - Any other person approved by the SHA as a reasonable accommodation for a person with a disability
- The right to a private hearing unless the complainant requests a public hearing.

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- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the SHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the SHA or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Decision without Hearing [24 CFR 966.56(c)]

The hearing officer/panel may render a decision without proceeding with the hearing if the hearing officer/panel determines that the issue has been previously decided in another proceeding.

Failure to Appear [24 CFR 966.56(d)]

If the complainant or the SHA fails to appear at a scheduled hearing, the hearing officer shall make a determination to postpone the hearing for not to exceed five business days or make a determination that the party has waived his/her right to a hearing. Both the complainant and the SHA must be notified of the determination by the hearing officer/panel: Provided, that a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest the SHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the SHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

General Procedures [24 CFR 966.56(e), (f), and (g)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the SHA will sustain the burden of justifying the SHA action or failure to act against which the complaint is directed [24 CFR 966.56(e)].

The hearing will be conducted informally by the hearing officer. The SHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and

may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings [24 CFR 966.56(f)].

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- **Oral evidence:** the testimony of witnesses
- **Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the SHA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence:** A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If the SHA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine SHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the SHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer must require the SHA, 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 to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate [24 CFR 966.56(f)].

The complainant or the SHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(g)].

If the complainant would like the SHA to record the proceedings by audiotape, the request must be made to the SHA by 12:00 p.m. on the business day prior to the hearing.

The SHA will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(h)]

The SHA will provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the SHA's responsibilities pertaining to reasonable accommodation.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL [24 CFR 966.57]

The hearing officer will issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of evidence presented at the hearing. A copy of the decision will be sent to the tenant and the SHA. The SHA will retain a copy of the decision in the tenant's folder. A copy of the decision, with all names and identifying references deleted, will also be maintained on file by the SHA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

In rendering a decision, the hearing officer will consider the following matters:

- **SHA Notice to the Family:** The hearing officer will determine if the reasons for the SHA's decision are factually stated in the notice.
- **Discovery:** The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with SHA policy.
- **SHA Evidence to Support the SHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the SHA's conclusion.
- **Validity of Grounds for Termination of Tenancy (when applicable):** The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and SHA policies. If the grounds for termination are not specified in the regulations or in compliance with SHA policies, then the decision of the SHA will be overturned.

The hearing officer will issue a written decision to the family and the SHA no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

- Name of the complainant
- Date, time and place of the hearing
- Name of the hearing officer
- Name of the SHA representative(s)
- Name of family representative (if any)
- Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the SHA's decision.

Order: The hearing report will include a statement of whether the SHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the SHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the SHA to restore the family's status.

Procedures for Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the SHA will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer/panel is binding on the SHA which must take the action, or refrain from taking the action cited in the decision unless the SHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern SHA action or failure to act in accordance with or involving the complainant's lease on SHA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the SHA

When the SHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the SHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners in favor of the SHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The SHA is committed to ensuring that funds made available to the SHA are spent in accordance with HUD requirements.

This chapter covers HUD and SHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents SHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the SHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

The SHA anticipates that the vast majority of families and SHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the SHA's program is administered effectively and according to the highest ethical and legal standards, the SHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The SHA will provide each applicant and resident with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

The SHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The SHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

The SHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

SHA staff will be required to review and explain the contents of all HUD- and SHA-required forms prior to requesting family member signatures.

The SHA will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key SHA forms and form letters that request information from a family member.

The SHA will provide each SHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

Quality Control and Analysis of Data

In addition to taking steps to prevent errors and program abuse, the SHA will use a variety of activities to detect errors and program abuse, including:

- The SHA routinely will use available sources of up-front income verification to compare with family-provided information.

- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The SHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires that the SHS have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of SHA activities and notifies the SHA of errors and potential cases of program abuse.

The SHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the SHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

The SHA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the SHA Will Investigate

The SHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the SHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The SHA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The SHA may investigate possible instances of error or abuse using all available SHA and public records. If necessary, the SHA will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

The SHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the SHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the SHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse will be corrected prospectively. Whether the SHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the SHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

The SHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the SHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the SHA will promptly correct the tenant rent and any utility reimbursement prospectively.

- Increases in the tenant rent will be implemented only after the family has received 30 days notice.
- Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the SHA or the SHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the SHA to use incorrect information provided by a third party.

Family Reimbursement to SHA

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The SHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the SHA will terminate the family's lease in accordance with the policies in Chapter 13.

SHA Reimbursement to Family

The SHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the SHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the SHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the SHA Board of Commissioners, employees, contractors, or other SHA representatives
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the SHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The SHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the SHA may, at its discretion, impose any of the following remedies.

- The SHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to SHA).
- The SHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The SHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The SHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. SHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of SHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of

a SHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct are provided in the SHA personnel policy.

SHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to the SHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by SHA staff.

SHA Reimbursement to Family

The SHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

Any of the following will be considered evidence of program abuse by SHA staff:

- Failing to comply with any public housing program requirements for personal gain
- Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the SHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of SHA activities, policies, or practices
- Misappropriating or misusing public housing funds
- Destroying, concealing, removing, or inappropriately using any records related to the public housing program
- Committing any other corrupt or criminal act in connection with any federal housing program

15-II.D. CRIMINAL PROSECUTION

When the SHA determines that program abuse by a family or SHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the SHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

If the SHA enters into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family, it shall retain 100 percent of program funds that the SHA recovers [Notice PIH 2005-7 (HA)].

If the SHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the SHA's grievance process.

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Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of SHA-furnished utilities.

Part II: Establishing Flat Rents and Public Housing Maximum Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts and public housing maximum rents.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families, and describes the circumstances under which the SHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect the SHA.

Part V: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the SHA will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the SHA's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Notification to Applicants and Tenants regarding Protections under the Violence against Women Reauthorization Act of 2005 (VAWA). This part includes policies for notifying applicants and tenants of VAWA requirements.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

The SHA has established allowances for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)]. The SHA shall maintain a record that documents the basis on which utility allowances are established and revised, and the record will be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B UTILITY ALLOWANCES

The SHA will establish separate allowances for each utility and for each category of dwelling units the SHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of the SHA 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 SHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and siting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the PHA about establishing utility allowances.

Air-Conditioning

Where the SHA provides/installs air-conditioning and the utilities are tenant-paid, the SHA will provide a utility allowance for air-conditioning.

Utility Allowance Revisions [24 CFR 965.507]

The SHA will review, at least annually, the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The SHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

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

16-I.C. SURCHARGES FOR SHA-FURNISHED UTILITIES [24 CFR 965.506]

With the exception of water, all utilities are tenant-paid. The SHA does not have a schedule of surcharges for water consumption.

16-I.D. NOTICE REQUIREMENTS [965.502]

The SHA will give notice to all residents of proposed allowances and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances or revisions.
- Describe the basis for determination of the allowances or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances.
- Notify residents of the place where the SHA's documentation on which allowances are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances or revisions.

16-I.E. REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the SHA will approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family [PH Occ GB, p. 172].

Likewise, residents with disabilities shall not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS AND PUBLIC HOUSING MAXIMUM RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Public housing maximum rents are needed to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the SHA establishes and updates flat rents and public housing maximum rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and public housing maximum rents are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b)]

Establishing Flat Rents

Flat rents for public housing units are based on the market rent charged for comparable units in the private unassisted rental market. The flat rent shall be equal to the estimated rent for which the SHA could promptly lease the public housing unit after preparation for occupancy.

The SHA will use a reasonable method to determine flat rents. In determining flat rents, the SHA will consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of property
- Amenities at the property and in immediate neighborhood
- Housing services provided
- Maintenance provided by the SHA
- Utilities provided by the SHA

Review of Flat Rents

The SHA will review flat rents on an annual basis, and adjust them as necessary to ensure that flat rents continue to mirror market rent values.

Posting of Flat Rents

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

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

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

16-II.C. PUBLIC HOUSING MAXIMUM RENTS

Establishing Public Housing Maximum Rents

The SHA is prohibited from making financial assistance available to persons who are not citizens or nationals of the United States, and to those who do not have eligible immigration status [24 CFR 5.500]. Therefore, in order to assist mixed families, the SHA must prorate assistance. Public housing maximum rents are needed in order to calculate the tenant rent for a mixed family.

The public housing maximum rent is based on value of the 95th percentile of the total tenant payment (TTP) for each tenant within the PHA. The SHA may calculate a maximum rent on either a PHA- or project wide basis. A separate maximum rent can be provided for each separate project or projects may be combined into logical groups, if appropriate. HUD recommends that a single project basis be avoided for a project unless at least 50 dwelling units are involved.

The SHA may use the “direct comparison” or the “unit distribution” method for establishing the public housing maximum rents for each unit size. Appendix H, of Guidebook 7465.G, Restrictions on Assistance to Noncitizens provides detailed guidance on how to establish public housing maximum rents using the methodologies identified above.

Review of Public Housing Maximum Rents

The SHA will recalculate the public housing maximum rents on an annual basis.

Posting of Public Housing Maximum Rents

The SHA will publicly post the schedule of public housing maximum rents in a conspicuous manner in the applicable SHA or project office.

Documentation of Public Housing Maximum Rents

The SHA will maintain records that document how the SHA determined the 95th percentile of TTP, whether the maximum rent was determined SHA-wide, project-wide, or with groupings of projects, and the methodology used to determine maximum rents for each unit size.

PART III: FAMILY DEBTS TO THE PHA

16-III.A. OVERVIEW

This part describes the SHA's policies for recovery of monies that have been underpaid by families.

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the SHA holds the family liable to return any underpayments to the SHA.

The SHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. The term *repayment agreement* refers to a formal document signed by a tenant and provided to the SHA in which a tenant acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

When a family refuses to repay monies owed to the SHA, the SHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit

16-III.B. REPAYMENT POLICY

Family Debts to the SHA

Any amount due to the SHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the SHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the SHA will terminate the family's tenancy in accordance with the policies in Chapter 13. The SHA will also pursue other modes of collection.

Repayment Agreement Guidelines

Down Payment Requirement

Upon the execution of a repayment agreement, the family must pay the greater of \$25 or 25% percent of the balance owed to the SHA.

Payment Thresholds

- Amounts over \$2000 must be paid within 12 months
- Amounts between \$501 and \$1,000 must be paid within 6 months
- Amounts under \$500 must be paid within 3 months

Execution of the Agreement

The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

Due Dates

All payments are due by the close of business on the 5th day of the month. If the 5th does not fall on a business day, the due date is the close of business on the first business day after the 5th.

Non-Payment

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the SHA, the SHA will send the family a delinquency notice in accordance with the provisions outlined in Chapter 13. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the SHA will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12 month period, the repayment agreement will be considered in default, and the SHA will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

The SHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family, or the amounts owed by the family exceed the Federal or State threshold for criminal prosecution.

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PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the PHA's properties

Maximum Score: 30

- The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.
- To determine the physical condition of a PHA's properties, inspections are performed of the following five major areas of public housing: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in the PHA's public housing portfolio.

Indicator 2: Financial condition of a PHA

Maximum Score: 30

- The objective of this indicator is to measure the financial condition of a PHA for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- A PHA's financial condition is determined by measuring the PHA's entity-wide performance in each of the following components: current ratio, number of months expendable fund balance, tenant receivable outstanding, occupancy loss, expense management/utility consumption, and net income or loss divided by the expendable fund balance.

Indicator 3: Management operations of a PHA**Maximum Score: 30**

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA for the purpose of assessing the PHA's management operations capabilities.
- A PHA's management operations are assessed based on the following sub-indicators: vacant unit turnaround time, capital fund, work orders, PHA annual inspection of units and systems, security, and economic self-sufficiency.

Indicator 4: Resident service and satisfaction**Maximum Score: 10**

- The objective of this indicator is to measure the level of resident satisfaction with living conditions at the PHA.
- The PHA's score for this indicator is based on the results of resident surveys and the level of implementation and follow-up or corrective actions the PHA takes based on the results of the survey.

16-IV.C. PHAS SCORING [24 CFR 902.63 and 902.67]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the components under each indicator. PHAS scores translate into a designation for each PHA as high performing, standard, or troubled.

A high performer is a PHA that achieves a score of at least 60 percent of the points available under each of the four indicators, and achieves an overall PHAS score of 90 or greater.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and does not achieve less than 60 percent of the total points available under one of the following Indicators: 1, 2, or 3.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 60 percent of the total points available under more than one of the following indicators: 1, 2, or 3.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- PHAs that are standard performers may be required to submit an improvement plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance [24 CFR 902.75].

- PHAs that fail to execute or meet MOA requirements may be referred to the Departmental Enforcement Center [24 CFR 902.77].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and status.

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PART V: RECORD KEEPING

16-V.A. OVERVIEW

The SHA shall maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the SHA will ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. RECORD RETENTION

During the term of each public housing tenancy, and for at least four years thereafter, the SHA will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, the SHA will keep the following records for at least four 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 and the public housing maximum rent
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation supporting SHAS scores
- Accounts and other records supporting SHA budget and financial statements for the program
- Other records as determined by the SHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

The SHA will maintain applicant and participant files and information in accordance with the regulatory requirements described below.

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

SHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income

information of applicants and participants will be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the SHA may release the information collected.

Upfront Income Verification (UIV) Records

The SHA accesses UIV data through HUD's Enterprise Income Verification (EIV) System and shall adopted and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

Prior to utilizing HUD's EIV system, the SHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The SHA may only disclose the criminal conviction records which the SHA receives from a law enforcement agency to officers or employees of the SHA, or to authorized representatives of the SHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The SHA will establish and implement a system of records management that ensures that any criminal record received by the SHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the SHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The SHA will establish and implement a system of records management that ensures that any sex offender registration information received by the SHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the SHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a SHA other than under 24 CFR 5.905.

Medical/Disability Records

The SHA is not permitted to inquire about the nature or extent of a person's disability. The SHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the SHA receives a verification document that provides such information, the SHA shall not place this information in the tenant file. The SHA shall destroy the document.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e)]

The SHA has certain responsibilities relative to children with environmental intervention blood lead levels that are living in public housing.

The SHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level within 5 business days of being so notified by any other medical health care professional. The SHA will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 5 business days of receiving the information.

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**PART VII: NOTIFICATION TO APPLICANTS AND TENANTS
REGARDING PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN
REAUTHORIZATION ACT OF 2005 (VAWA)**

16-VII.A. OVERVIEW

The Violence against Women Reauthorization Act of 2005 (VAWA) requires the SHA to inform public housing tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, the SHA elects to provide the same information to applicants.

This part describes the steps that the SHA will take to ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

16-VII.B. VAWA NOTIFICATION

The SHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

- A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, or stalking (see sample notice in Exhibit 16-1)
- The definitions of *domestic violence*, *dating violence*, and *stalking* provided in VAWA (included in Exhibit 16-1)
- An explanation of the documentation that the SHA may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)
- A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking
- A statement of the SHA's obligation to keep confidential any information that it receives from a victim unless (a) the SHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)
- Contact information for local victim advocacy groups or service providers

16-VII.C. NOTIFICATION TO APPLICANTS

The SHA will provide all applicants with notification of their protections and rights under VAWA at the time they request an application for housing assistance.

The notice will explain the protections afforded under the law, inform each applicant of SHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The SHA will also include in all notices of denial a statement explaining the protection against denial provided by VAWA (see section 3-III.F).

16-VII.D. NOTIFICATION TO TENANTS [Pub.L. 109-162]

VAWA requires the SHA to notify tenants assisted under public housing of their rights under this law, including their right to confidentiality and the limits thereof.

The SHA will provide all tenants with notification of their protections and rights under VAWA at the time of admission and at annual reexamination.

The notice will explain the protections afforded under the law, inform the tenant of SHA confidentiality requirements, and provide contact information for local victim advocacy groups or service providers.

The SHA will also include in all lease termination notices a statement explaining the protection against termination or eviction provided by VAWA (see Section 13-IV.D).

EXHIBIT 16-1: SAMPLE NOTICE TO PUBLIC HOUSING APPLICANTS AND RESIDENTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2006 protects individuals who are victims of domestic violence, dating violence, and stalking. The name of the law is the Violence against Women Act, or “VAWA.” This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, or stalking.

If you are the victim of domestic violence, dating violence, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

The housing authority can still evict you if the housing authority can show there is an *actual* and *imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

Proving that You Are a Victim of Domestic Violence, Dating Violence, or Stalking

The housing authority can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, or stalking. In cases of termination or eviction, the housing authority must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence.
- Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”
- Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

Confidentiality

The housing authority must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority to release the information.

If release of the information would put your safety at risk, you should inform the housing authority.

VAWA and Other Laws

VAWA does not limit the housing authority’s duty to honor court orders about access to or control of a public housing unit. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking.

For Additional Information

If you have any questions regarding VAWA, please contact _____ at _____.

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines **domestic violence** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- 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

VAWA defines **dating violence** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) 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

VAWA defines **stalking** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) 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 (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

Chapter 17

RENT COLLECTIONS & REPAYMENT POLICIES

INTRODUCTION

This Chapter describes the SHA's policies for the recovery of monies that 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 review by the family or other interested parties.

It is the intent of the SHA to collect in a timely manner all monies owed to it by the tenants of its housing units. The policy statements contained herein set forth the requirements for tenants to meet their financial obligations to the SHA and guidelines for staff to execute their collection duties. Specific rent collection goals may be made a part of the management staff's performance standards. Failure to meet stated rent collection goals will be grounds for transfer, demotion or termination.

PART I - RENT COLLECTION POLICIES

17-I.A. RENT AND CHARGES DUE AND PAYABLE

Rent for all tenants is due and payable by the first (1st) day of the month and considered late at the close of business on the fifth (5th) calendar day of the month. If the fifth calendar day of the month falls on a holiday or weekend, rent will be accepted, without penalty, on the first business day following that holiday or weekend.

Late Rent

With the exception of the circumstances specified in this section, all rent payments not received by the day and time specified above shall be considered late and will be assessed a late fee of \$50.00 (Fifty Dollars). Payments on behalf of a resident made through payroll deduction or protective payment by an authorized agency, which are delayed beyond the ninth (5th) calendar day of the month will not be considered late and the resident will not be assessed a late fee if such delay is not the fault of the resident. Three (3) late payments within a twelve (12) month period constitute chronic late payment and is a material violation of the lease. If a tenant commits this violation, rent will not be accepted and actions to evict shall be initiated.

Other Charges

Any charges other than rent become due and payable on the first day of the second month following the date the charge was incurred by the resident and not earlier than fourteen (14) days after the resident has been properly notified of the charge by the SHA. Payment of these charges will be considered late if they are not received by the close of business on the fifth (5th) day of the month in which they are due. If the fifth (5th) calendar day of the month falls on a holiday or weekend, other charges will be accepted, without penalty, until the close of business on the first business day following that holiday or weekend. Failure to make full and timely payment of the other charges is a lease violation and grounds for termination of tenancy pursuant to the adopted lease and grievance procedures.

17-I.B. PAYMENT METHODS AND LOCATIONS

Non-cash payments (checks and money orders) for rent, security deposits and other charges shall be accepted at 89 Castle Brewer Court Management Office, 16 Cowan Moughton Terrace Management Office, and Redding Gardens Management Office. **No cash payments will be accepted.** Third party personal checks will not be accepted. Protective payments from authorized agencies will be accepted in payment of rent and other charges.

All checks and money orders shall be made payable to *Sanford Housing Authority*. No partial payments for rent and/or charges will be accepted unless such partial payment is made in accordance with the terms of a valid and up-to-date *Repayment Agreement*.

17-I.C. NOTICE OF DELINQUENCY

Any tenant who has not made the required payment of rent by the time rent is considered late will be sent a “14-Day Demand for Rent” notice in compliance with Federal and State law. Not later than the day immediately following the day the rent becomes delinquent, this notice shall be mailed, certified – “return-receipt requested”, or hand-delivered by an agent of the SHA to an adult member of the tenant household.

Any tenant who has not made the required payment of other charges by the date charges are due are considered late, will be sent a “30-Day Demand for Charges” notice in compliance with Federal and State law. Not later than the day immediately following the day the Other Charges becomes delinquent, this notice shall be mailed, certified – “return-receipt requested”, or hand-delivered by an agent of the SHA to an adult member of the tenant household.

The SHA shall immediately begin legal proceedings to evict tenants who have not paid full rent and other charges, or made satisfactory arrangements with the SHA to make such payments under a repayment agreement, but the expiration of the applicable notice period described above. Once the SHA has filed a petition for eviction with the courts, no payments of rent or other charges will be accepted unless full payment of all amounts due, including applicable court costs/legal fees, are tendered and there are no other documented lease violations by any other member of the household for the immediate twelve (12) month period. If these conditions are not met, the resident will be expected to vacate the unit or the case will be disposed of through judicial proceedings.

17-I.D. RETURNED CHECKS

In the event a personal check is returned by the bank, the tenant will be assessed a \$50.00 (Fifty Dollar) returned check fee. Any tenant having a check returned is prohibited from making payments by personal check for the next twelve (12) month period.

17-I.E. COLLECTION OF VACATED ACCOUNTS AND LOSS CONTROL

Accounts of tenants moving out of a dwelling unit owing the SHA rent, repair and other charges will be pursued for collection. The SHA shall submit these accounts to the credit bureau collection agency and, if deemed appropriate, small claims court, after reasonable efforts of staff have failed to collect the full amount owed. Staff actions shall be deemed reasonable if, within thirty (30) days of termination of tenancy, the following has taken place:

- A certified letter, stating the amount owed and the expectation of payment within ten (10) calendar days, is sent to the last known address of the former tenant, immediately upon determining the balance of the vacated account;
- Reasonable attempts to reach the former tenant by phone have been made, and
- The payment has not been made in full and the former tenant has not made reasonable arrangements to pay.

Any former resident with an outstanding account balance with the SHA will be denied readmission in any of its housing programs unless the past due amount is paid in full and all other criteria for admission are met. Any applicant that is a former resident with an outstanding balance will be given the opportunity to enter into a repayment agreement while they are on the waiting list. However, payment in full must be made by the time of final eligibility determination to be eligible for admission.

Write-Off of Vacated Accounts

Delinquent accounts of vacated tenants shall not be maintained on the books of account if there is no reasonable chance of collection. Accounts of vacated tenants shall be considered uncollectible if they are over ninety (90) days old and staff has made reasonable, but unsuccessful, attempts to collect the full amount. Such accounts shall be written off through resolution of the Board of Commissioners. The resolution shall identify the receivable to be written off by account number, tenant name, and uncollected amount. Writing off an account as uncollectible does not eliminate the debt of the delinquent vacated tenant.

17-I.F. REPAYMENT AGREEMENTS

Tenants may, under certain circumstances, enter into a repayment agreement to modify the terms of delinquent amounts owed. SHA shall not terminate the lease of the delinquent tenant for reason of nonpayment unless the tenant fails to keep current rent paid up-to-date or the terms of the repayment agreement are broken.

Not more than one repayment agreement may be executed within a 12-month period. Eligibility to enter into a repayment agreement is contingent upon meeting all of the following conditions:

- No other repayment agreement is in force;
- The tenant has not been delinquent three (3) times within the preceding 12-month period;
- The repayment agreement is requested within the statutory delinquency notice period prior to initiation of legal action for non-payment;
- The tenant is not under any actual or pending eviction proceeding;
- There are no carryover balances from the previous month, and
- The reason for the request for the repayment agreement is valid and fully substantiated and documented.

The maximum duration of any repayment agreement is twelve (12) months. The terms of all SHA repayment contracts shall be as follows:

Balance Due	Payment Due
\$26 - \$500	25% down and balance within 3 months with minimum payment of 1/3 of the balance
\$501 - \$1,000	25% down and balance within 6 months with minimum payment of 1/5 of the balance

\$1001+	25% down and balance within 12 months with minimum payment of 1/11 of the balance
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The lease shall be considered amended when a “*Repayment Agreement*” is executed. Such lease amendment shall effect a rent change consistent with the terms of the Repayment Agreement.

17-I.G. NOTICE OF RENT INCREASES

Rent increases as a result of annual or interim reexamination in which the tenant complied with reporting requirements contained in the lease and *Admissions and Occupancy Policy* (ACOP) shall become effective on the first day of the second month following the determination of rental amount or the effective date of the reexamination, whichever is later. At least thirty (30) days written notice will be given prior to the effective date of such increase.

Rent increases as a result of amount or interim reexaminations in which the tenant did not comply with the above-referenced reporting requirements shall be due on the first day of the month following the determination of the rental amount. At least fourteen (14) days written notice will be given prior to the effective date of such increase. Retroactive rent may be charged in accordance with the provisions of the ACOP if the circumstances warrant.

17-I.H DUE DATES

Rent is due and payable on the first calendar day of the month. If the first day of the month falls on a weekend or holiday, the rent shall be due and payable on the first business day following that weekend or holiday. Tenants are to be kept informed of this through:

- Posting of notices and rent collection policy
- Briefing in orientations for new tenants
- Meetings with tenants who are having difficulty paying rent on time
- Periodic notices sent directly to tenants

17-I.I GRACE PERIOD

Rent and other chares are considered delinquent if they have not been received by the close of business on the night (5th) calendar day after the rental due date. If the 5th day of the month falls on a weekend or holiday, the rent shall be considered delinquent by the close of business of the first business day following that weekend or holiday.

Managers shall be provided with a calendar indicating the rental due dates and the dates on which rent is late for the year. Managers shall review the calendar prior to the beginning of each month to stay informed of the timing of the due and delinquent dates.

17-I.J. LATE PENALTIES AND CHARGES

Late Fee: The Accounting Department shall post a charge of \$50.00 (Fifty Dollars) to the tenant’s account if rent is delinquent. If the late payment is made on behalf of the resident through payroll deduction, protective payment or other vendor payment by an authorized agency, and the late payment is not the fault of the resident, the late fee shall be forgiven:

- Account of tenants whose rent is paid through payroll deductions or vendor payments shall be flagged (by Managers) on the resident ledgers and in the tenant's file.
- Each time a payment of rent through payroll deduction or vendor payment is late, the Manager shall:
 - Within two (2) days of the end of the grace period, determine the reason for the delay in payment.
 - If the delay is not the fault of the tenant, prepare an adjustment slip removing the \$50.00 late fee.
 - Forward the adjustment slip to the Executive Director for review and approval.
- The Executive Director will forward the approved adjustment slip to the Accounting Department for the charge to be removed.
- Upon receipt of the adjustment slip, Accounting shall:
 - Remove \$50.00 charge from the resident's account.
 - Issue a letter informing the tenant that the charge has been removed and the "14-Day Notice" is rescinded.

17-I.K RETURNED CHECK FEE

A "Returned Check" Fee of \$50.00 (Fifty Dollars) will be posted to the tenant's account for returned (non-sufficient funds) checks. If a tenant pays with a bad check, the Manager will require that they pay by money order or cashier's check for the next 12-month period. Additionally, the Manager shall flag the tenant's account and file to alert staff that they are not to accept personal checks from that tenant for the appropriate period of time. If a tenant subsequently offers to pay with a personal check, the payment shall be refused and that tenant shall be instructed to obtain a money order or cashier's check and return with the payment.

17-I.L. COURT COSTS AND ATTORNEY FEES

If a delinquency has to be referred to an attorney or the courts for collection or eviction, the appropriate charge, as established by the SHA, will be posted to the tenant's account.

17-I.M. ACCEPTABLE FORMS FOR PAYMENT OF RENT AND OTHER CHARGES

Only the full amount of rent and/or charges will be accepted. No partial payments will be accepted unless they are made in accordance with a valid, up-to-date repayment agreement. Tenants may pay their rent by check or money order. No cash will be accepted for the payment of rent or charges. The SHA will not accept cash at the main office or any management offices. If a tenant appears to

either the main office or any management office offering cash in payment for rent or other charges, it must not be accept by the staff. The tenant must be directed to pay by check or money order.

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PART II – COLLECTION PROCEDURES

17-II.A. RENT COLLECTION PROCEDURES

Preparing for Rent Collection

Between the dates when books are closed and the beginning of the following month, all agency staff charged with rent collection responsibilities will prepare for the next month's rent collection. Managers are to obtain an accurate picture of any tenant entering the coming month with delinquent balances in rent or other charges by studying the *End-of-Month Delinquency Report, Aged Tenant Accounts Receivable Report, Daily records of Late Payments, Monthly Rent Roll, or Resident Ledgers.*

Checking Repayment Contracts

Manager shall review the file copies of any repayment agreements entered into in the current month to be familiar with the amounts the tenant executing such contracts will be required to pay in addition to rent in the coming month, as well as the duration of the repayment agreements.

Monitoring Eviction Paperwork

Managers shall make themselves fully aware of those residents with cases being processed for eviction by checking the files and paperwork of any delinquent tenants.

Preparing Rent Statements

The Accounting Department is responsible for preparing and posting by first class mail the rent statements in a timely manner, which ensures that they are received by the resident not later than the first calendar of the month in which rent is due. Manager shall be notified as quickly as possible if there is any delay or error in sending out rent statements.

Handling Payments

Only the following SHA personnel are specifically authorized to accept rent or charges, or handle any receipts for rent and other charges:

- Manager
- Housing Assistance/Occupancy Specialist
- Administrative Assistant to the Executive Director
- Receptionist

Payment in Person

If the tenant is paying in person, that tenant must present their rent/charge billing with the payment. The employee receiving the rent shall:

- Determine if the proper amount is being tendered.

- Accept the payment if it is the proper amount.
- Sign one copy of the billing and return it to the tenant.
- Keep one copy of the billing and attach it to the payment.
- Record receipt of the payments in the daily receipt journal.

If the resident does **not** bring the billing, the employee receiving the payment shall:

- Determine if the proper amount is being tendered.
- Accept the payment if it is the proper amount.
- Prepare a receipt and give one copy to the tenant.
- Attach a copy of the receipt to the payment.
- Record receipt of the payments in the daily receipt journal.

If the resident does not tender the proper amount of rent and other charges, the payment is to be refused and the tenant informed of the proper amount to be paid.

Payment by Mail

If the tenant's payment is mailed to the SHA Main Office, the resident is to include a copy of the billing statement with the payment. If no billing statement is provided, the cashier shall:

- Determine if the proper amount is being tendered.
- Attach the deposit slip to the payment.
- Record receipt of the payment in the daily receipts journal.

If the proper amount of rent and/or charges is not tendered, the payment is to be refused:

- Prepare and attach a return slip to the payment.
- Send the payment and attached slip to the Manager.
- The Manager shall return the payment to the tenant.

Acceptance of Delinquent Rent and Charges

Delinquent rent and/or charges may be accepted until the Sheriff completes the lockout. Staff shall accept such payment, however, only if the full amount including late fees and other penalties are tendered.

No payment(s) are accepted after LOCKOUT occurs.

Focus On Rent Collection

Managers should focus special attention on rent collections during the first ten (10) days of each

month, until residents are consistently meeting their financial obligations to the SHA in a timely fashion. To the extent possible, training, inspections or recertification should be secondary to rent collection during this period. This time should be spent receiving rent, reminding residents of their obligation to pay, reviewing progress on payments, and contacting residents who have not paid their rent in a timely fashion.

Recording and Depositing Payments

Cash Receipts Journal: The daily receipts shall be annotated with proper information by the receptionist or management staff each time a payment is received. At the end of each business day, the money received shall be counted and a tape made. The collections indicated in the daily receipts journal shall also be totaled. The amount of money collected and the daily receipts journal total must be equal.

Daily Deposits and Transmittal: Management staff responsible for transferring money collected to the Accounting Department shall do so on a daily basis. These funds must be accompanied by a transmittal, which indicates the amount of money from the collection of rents and other charges, including security deposits, being delivered. This transmittal and money shall be accompanied by the following:

- A calculator tape itemizing the amount of cash collection and totaling the day's collections;
- A calculator type itemizing the amount of each entry in the daily receipts journal and the total of entries; and
- The appropriate billings, duplicates of billings, or receipts as required to identify the source, amount and applicability of each payment received and transmitted.

Resident Ledger

The Accounting Department will receive the daily collections from the management offices and from the Central Office. Accounting will also receive statements from the designated banks indicating the identity and amount of payments received for rents and other charges. As the daily receipts and bank-generated statements are received by the Accounting Department, the appropriate entries shall be made into the tenant accounting database. Each amount received shall be credited to the appropriate tenant's account. Accounting shall keep the records of tenant accounts up-to-date, so that all managers may review tenant accounts to ascertain who has and has not paid rent and/or other charges.

Delinquent Accounts

Staff is to place high priority on the collection of delinquent rents and charges. Control of delinquent accounts is to be considered an indicator of the Manager's effectiveness. Managers are to maintain records of delinquent tenants and of the efforts taken to collect amounts past due. Managers have the authority, within the limits established by the rent collection policy and

procedures, to determine if tenant requests for modification of terms for payment are acceptable.

Determining Tenants to Contact

The primary means of inducing payment of delinquent amounts and establishing more compliant rent paying habits is by direct contact of SHA staff with the tenant. Each day after the fifth (5th) of each month, the staff responsible for rent collection will review the tenant accounts to determine which tenants have not paid rent. Depending on the time of month, the stage of their delinquency, and their payment habits, the staff will contact delinquent tenants in writing, in person, or by phone to inform them of the delinquency and to discuss payment. All contact with the resident is to be carried out in a courteous and professional manner.

Written Contact and Delinquency Notices

First Written Notice: All tenants who have not paid rent and other charges in full by the end of the grace period, and who have not had those amounts covered by an up-to-date repayment agreement, shall be sent or delivered the appropriate delinquency notices. On the first day rent and charges are delinquent, the Accounting Department shall prepare and deliver the “14-Day Demand for Rent” and/or the “30-Day Demand for Charges other than rent and Late Fees” notices to the tenant.

The notice shall be sent via certified mail, “return receipt requested”, to the tenant at the address of the leased unit, or hand-delivered to an adult member of the household by an agent to the SHA. A record of the mailing or delivery shall be made by:

- Placing a properly annotated copy of the mailed notice, along with the stub of the certified mail receipt, in the tenant’s file. This annotated copy shall indicate the date and time of mailing and the signature of the staff member that mailed the notice, or
- Placing a properly annotated copy of the mailed notice in the tenant’s file, and
- Annotating the “Notice Delivery Log” to indicate the household member’s receipt or refusal of receipt of the notice, along with the date and time of attempted delivery and the signature of the SHA personnel that made or attempted delivery.

Subsequent Written Notices: At the Manager’s discretion, a reminder letter may be sent to the tenant at any time during the running of the 14-Day and/or 30-Day notice. All follow-up notices may be mailed or hand delivered to an adult member of the household. A record of the reminder letters shall be made in the same manner as that for hand-delivery and posting of the 14-Day and 30-Day notices. No additional written notices are to be delivered after the 14-day and/or 30-day period has expired.

All tenants who have not paid rent and other charges in full by the end of the grace period and who have not had those amounts covered by an up-to-date repayment agreement shall be delivered or sent the appropriate delinquency notices in accordance with the following schedule (expressed in terms of calendar days):

Days After Grace	Type of Notice	Method of Service	Person Responsible
1	14-Day	Delivery/Certified Mail	Accounting
5	First Reminder	Delivery	Manager
7	Second Reminder	Delivery	Manager
10	Third Reminder	Delivery	Manager

Copies of all delinquency notices shall be retained by the appropriate manager for documentation of the tenant's file.

Telephone Contact

If the rent and/or other charges have not been paid by the close of business the fifth (5th) day of the delinquency, the Manager will attempt contact by telephone. The tenant may be contacted either at home or at work. Once contact is made, the manager shall try to ascertain the reason payment has not been made. If necessary, the tenant shall be asked when payment can be expected, or an appointment will be scheduled for the tenant to come to the management office to discuss their plans to pay, negotiate a repayment agreement or, if the tenant is claiming hardship, provide documentation of that hardship.

Home Visit

If the rent and/or other charges have not been paid by the close of business the fifth (5th) day of the delinquency or the Manager was unable to establish phone contact, personal contact with the tenant shall be attempted. The Manager will go to the tenant's apartment (repeatedly, if needed) both during and after working hours to talk to the tenant about the delinquency. If, after repeated visits, the tenant appears to be away, the Manager will contact the neighbors and relatives to find out whether the delinquent tenant may have abandoned the unit.

Verifying Abandoned Units

If there is any possibility that a unit may have been abandoned, the Manager shall promptly send the family a letter by certified mail (with a copy to the file) notifying the family that they must contact the development office or the Central Office within two (2) working days or staff will enter the unit to verify possible abandonment.

Should the family fail to contact the project office within five (5) calendar days after the letter is sent, the Manager will enter the unit to determine whether it has been abandoned. A unit may be considered to be abandoned if there are no signs of recent habitation, nothing of value left in the unit, and no authorized occupant of the unit is seen entering or leaving the premises within the last two (2) days.

If the unit appears to be abandoned (i.e., not occupied or inhabited for a period of fifteen (15) or more days, and signs that the most or all items of value have been removed), the Manager shall notify the tenant in accordance with State law. If the unit is not secure, the maintenance staff should secure it.

If a delinquent tenant abandons a unit, the Manager will make every effort to determine the total charges owed, including any repairs needed to the unit resulting from damage caused by the tenant's actions or negligence. This amount shall be reported to the Accounting Department, which will deduct such amounts, plus unpaid rent and charges, from the security deposit.

Documenting the File

Each attempt to contact the tenant about the delinquency will be noted in the tenant's file indicating the date of the attempted contact, the method of attempted contact, the person attempting the contact and the outcome. Managers shall note this information on the *Delinquency Contact Report* form that is to be a part of the tenant's file. Copies of all Legal Notices and reminders will be retained in the file. Any items sent by certified mail and returned unclaimed will be held in the file unopened so that the Court may open them.

Duration of Rent Collection Efforts

Rent collection efforts are a month-long task. Attempts to reach all delinquent tenants by telephone and home visits will be continued until the full amount due has been paid or until the 14-Day delinquency remedy period has expired, whichever comes first. This means that Managers should determine who usually pays late and begin lobbying family for payment before and after rent is due. Managers should also consider referring such families to financial counseling.

17-II.B. REPAYMENT AGREEMENTS

Repayment agreements may be used to modify the terms (periodic amount and timing) of delinquent amounts owed. The circumstances under which repayment agreements are acceptable are under the discretion of the Manager as long as the family meets the basic eligibility requirements for a repayment agreement. Managers are cautioned against the indiscriminate use of these agreements, as they can become an obstacle to timely collections.

Purpose of Repayment Agreement(s)

A repayment agreement sets up a legally binding agreement between a delinquent tenant and the SHA under which the tenant agrees to pay current rent charges, plus a fair amount each month toward delinquent rent or charges until the delinquency is repaid in full.

The SHA, for its part, agrees not to terminate the lease of the delinquent tenant for non-payment unless the tenant breaks the terms of the repayment agreement.

Eligibility to Enter Into a Repayment Agreement

A tenant is eligible to execute a repayment agreement when all of the following conditions are met:

- No other repayment agreement is in force;
- The tenant has not been delinquent three (3) times within the preceding 12-month period;

- The repayment agreement is requested within the 14-day (for rent) or 30-day (for other charges) delinquency remedy which is concurrent with the running of the 14-Day or 30-Day Notice (this requirement may be waived if the tenant can prove that he/she was physically incapable of requesting this agreement during this period of time through no fault of his/her own);
- The tenant is not under any actual or pending eviction proceeding;
- There are no carryover balances from the previous month, and
- The reason for the request for the repayment agreement is valid and fully substantiated and documented.

Generally, these agreements should be restricted to clear cases of the following hardships:

- Death of an immediate family member.
- Serious illness that requires the un-reimbursed hospitalization of a member of the tenant's household.
- Similar grave circumstances beyond the control of the tenant.
- Lost or stolen paycheck.
- Unexpected SHA charge that exceeds the tenant's ability to pay in one sum.

The Manager shall document and obtain third-party verification of the hardship claimed by the tenant. The Manager shall also document the reason for granting each request for a repayment agreement.

Terms of Repayment Contracts

The maximum duration of any repayment agreement that a Manager may approve shall be in twelve (12) months, inclusive of the month in which the down payment is made. Any agreement that will exceed 12 months shall be forwarded to the executive Director for review and final disposition. The terms of all SHA repayment contracts shall be stated in **Section F**.

When the down payment required exceeds \$125.00, the Manager may approve arrangements resulting in the payment of the portion that exceeds \$125.00 in equal installments over a two (2) month period.

Preparation to Negotiate a Repayment Agreement

The Manager will conduct a file review before meeting with the tenant to determine:

- Whether the tenant's rent was computed correctly, whether any charge was correctly applied;

- Whether the tenant is entitled to some interim reduction in rent not yet granted;
- Whether the tenant's utility allowance has been reviewed within the past year as required by HUD regulations (24 CFR, part 965), or
- Whether the tenant might be entitled to rent abatement because of documented conditions hazardous to life, health or safety.

Any of these situations might reduce or alter the amount delinquent (or eliminate the delinquency) so all these possibilities must be checked before meeting with the tenant. If any of these conditions are present and warrant a reduction in the amount of rent or charges due, an adjustment is to be made and any resulting rent credit shall be applied retroactively to the time that the circumstance arose.

The Manager's file review should also include an examination of the tenant's payment history, and pending eviction actions, special circumstances and income.

The Manager should be thoroughly familiar with the particulars of the tenant's circumstances and be able to fully document the tenant's eligibility and sufficiency of justification for a repayment agreement.

Negotiating a Repayment Agreement

Once the Manager has determined that the tenant is eligible, the parties will meet to address the terms of the agreement. The primary topics for the negotiation are the down payment and the amount of the subsequent monthly payments under the agreement. The negotiation shall be carried out in a professional and non-threatening manner.

Managers should attempt to shorten the duration of the agreement by seeking the largest down payment and subsequent monthly payment that the tenant can afford. Under no circumstances may the Manager agree to a term that is in excess of 12 months, or which requires down payment of less than what is specified by SHA policy. The Manager shall take into consideration factors of affordability when negotiating the terms of the repayment agreement.

The Manager shall emphasize to the tenant that the repayment agreement being negotiated must be paid of in full and in accordance with the terms before the tenant can be considered for any other repayment agreement. The Manager should also inform the tenant that failure to abide by the terms of the agreement would be grounds for eviction for non-payment.

Executing the Repayment Agreement

Once the terms of the agreement have been settled, the Manager will fill out the *Repayment Agreement* form. The form will then be explained to the tenant and both parties will sign it in the appropriate places. Two copies of the executed agreement will be given to the tenant. The original copy of the agreement will be placed in the tenant's file.

The Manager will send a copy of the Repayment Agreement to the Executive Director within 24-hours. The tenant must pay the down payment at the management office at the time the Repayment

Agreement is signed. The Manager shall record pertinent information from all executed repayment agreements in the *Repayment Agreements Log*.

17-II.C. COLLECTION OF VACATED ACCOUNTS

Maintaining Information on Tenant

The Manager should endeavor to maintain adequate data on the tenant to permit skip tracing should the tenant move out without notice or with a balance owing. A contact list for each tenant should be developed which includes information such as, names, addresses and phone number(s) of:

- Relatives not living with the tenant
- Current and former employers
- Current and former associates

The contact list should be regularly updated. The initial eligibility certification and annual reexamination are excellent opportunities for obtaining this information.

Establishing Amount of Vacated Accounts Receivable

When a tenant vacates a unit, the Manager will determine any amounts remaining due and payable to the SHA. The Manager shall take appropriate action to have this amount deducted from the security deposit. If such amount exceeds the security deposit, a vacant tenant account receivable is deemed to exist.

Contact with Vacant Tenant

Within two (2) days of the determination amount of the vacated account receivable, the Manager shall prepare and send a letter by certified mail to the last known address of the vacated tenant. The letter should state the amount of money owed and the date and manner by which it is to be paid. The vacated tenant should be instructed to contact the Manager immediately to discuss plans for payment. The vacated tenant shall be given no more than ten (10) days to repay the amount specified in the letter. In addition, the Manager shall prepare a notice to the local Credit Bureau informing it of the vacated tenant and the amount owed.

If the contact by mail fails to yield results by the date specified in the letter, the Manager shall attempt to contact the vacated tenant by phone, if possible.

If unable to reach the vacated tenant by phone or mail, the Manager must attempt to obtain a valid address or phone number of the vacated tenant. Persons on the contact list should be called as part of this effort.

Use of Outside Collection Sources

If after 30 days the Manager's attempts to collect from the vacated tenant have been unsuccessful, the account shall be turned over to the Collection Agency designated by the SHA to collect vacated accounts. This shall be accomplished by undertaking the following activities:

- The Manager prepares a transmittal to the Accounting Department with the information on the vacated account, the fact that standard collection methods were unsuccessful, and that the account is to be turned over for collection.
- The Accounting Department will prepare a letter to the designated Collection Agency requesting collection of the vacated account. Copies of the letter will be forwarded to the Manager. The Accounting Department may forward to the Collection Agency any available information that might aid in the collection of the account.

Write-off of Uncollected Vacated Accounts

After all reasonable efforts to collect vacated accounts have been taken, they shall be written off in accordance with the SHA's *Write-Off Policy*.

17-II.D. EVICTIONS FOR NON-PAYMENT

Applicability

All tenants that have not paid their rent/charges in full by the expiration of the 14-Day and/or 30-Day notice shall be processed for eviction. The only exceptions are those tenants that have valid, up-to-date repayment agreements in force. The Executive Director must approve any exceptions to this requirement in writing.

Preparation of Documents

On the day after the expiration of the 14-Day and/or 30-Day notice period, the Manager shall review the accounts of all delinquent tenants. The files of those tenants that have not paid in full shall be pulled and the Manager shall prepare the following documentation for the eviction of each delinquent tenant:

- Copy of tenant ledger
- Copy of 14-Day Notice to tenant
- Copies of subsequent written delinquency notices to tenant
- Copies of written verification of method of service of the notices
- Copies of all written work requests and work orders for the past 24 months
- Request for check to pay filing fees

These documents shall be sent along with a transmittal to the Executive Director not later than one (1) day after the expiration of the applicable notice.

Filing the Eviction Papers

The Executive Director shall review the Manager's eviction files to ensure that the documentation and forms have been properly completed and that all legal requirements for notice have been met. The review shall be conducted within one (1) working day of the receipt of the documentation from

the Manager.

The Executive Director will direct the Accounting Department to prepare the check in accordance with the request and forward it, along with the case file to the SHA attorney. The same day the check and eviction file are received from the Manager, the SHA attorney shall file the eviction with the court. The Manager should be prepared to testify in court should the eviction be contested.

Executing the Eviction

After entry of judgment in favor of the SHA and the court's issuance of the writ of possession, the court will order the writ posted on the premises. Twenty-four hours (24 hours) after the posting of the writ, the SHA may take possession of the premises and remove any personal property found on the premises, and place it curbside. The locks shall be changed at this time. In order to execute the eviction, the Manager shall:

- Track the posting of the Writ of Possession;
- Coordinate the eviction activities, including scheduling the Sheriff's presence for the actual eviction;
- Schedule maintenance to remove the tenant's possessions 24 hours after posting of the Writ; and
- Have the unit secured by changing the locks and boarding up the windows.

17-II.E. RENT COLLECTION MONITORING

HUD Form 52295

Each month the SHA accounting office will complete the HUD-52295 form for each development. Copies of the full set forms will be sent to the Executive Director and the Managers. Managers are encouraged to track the progress of their rent collection efforts by reviewing these forms when they are received. The Executive Director shall review these forms as part of the method of monitoring staff's performance in the area of rent collection

Delinquency Explanation Form

By the 20th day of each month, the Manger will send a *Delinquency Explanation Form* to the Executive Director. This form lists all delinquent tenants by status (under repayment agreement, being processed for eviction, and other). All delinquent tenants and the status of that delinquency will be reflected on this form. If there is a delinquent tenant and no action has been taken or action initiated has not been concluded in a timely manner, the Manger must provide an explanation.

17-M. RENT COLLECTION & REPAYMENT FORMS

- SHA Delinquency Explanation Form – Parts I-III

- Repayment Contact Worksheet
- Repayment Agreement
- Repayment Agreement Log
- Repayment Agreement Register
- *Example* – First Reminder Letter
- *Example* – Second Reminder Letter
- *Example* – Third Reminder Letter

DRAFT

Chapter 18

HOUSEKEEPING

PART I – HOUSEKEEPING POLICY

18-I.A. HOUSEKEEPING POLICY

It is the policy of the SHA is to maintain its low-rent public housing units in a manner consistent with Federal, state and local laws and to provide “*decent, safe, and sanitary housing in good repair.*” This Chapter describes the policies and procedures for compliance with SHA’s housekeeping policy. The primary purpose of the policy is to ensure that all residents maintain a reasonable standard of housekeeping and housing in good repair.

To maintain this standard, and to document the SHA’s ongoing efforts to fully comply with HUD standards, the SHA will perform semi-annual *housekeeping inspections* of all occupied public housing units. When a family is determined to be a “problem” housekeeper, pursuant to the agency’s objective rating standards, such families will be subject to more frequent inspections.

The objective of the housekeeping inspection is to determine if the current living and housekeeping practices of the family can be reasonably expected to further the agency’s goals of establishing and maintaining decent, safe and sanitary housing in good repair. It is further understood that the SHA will use objective inspection criteria in making its determination. Moreover, it is understood that if the head of household or member of the household has a verified disability that contributes to a negative finding by the SHA, such circumstances will be taken into consideration and efforts to identify a range of supportive services for the individual(s) will occur.

Families who initially fail the housekeeping inspections will be required to participate in a *housekeeping training* class. The class will be offered as a videotaped training class to be held at the SHA’s main office or other location as designated by the SHA. Families who fail the second housekeeping inspection will be required to participate in a *hands-on* interactive training program offered by the SHA or a SHA partner organization. Families that repeatedly fail (i.e., three or more inspections while in occupancy) will be subject to lease termination (See *Chapter 14 – Lease Termination*).

Families will be provided either a standard two-day advance notice or one-week notice of the scheduled inspection. The SHA may enter the unit in the family’s absence after providing the required notice. In the family’s absence, SHA inspectors will leave a written notice of the date/time of entry and the reason for entry in a conspicuous place in the unit.

PART II – PROCEDURES FOR IMPLEMENTING POLICY

18-II.A. HOUSEKEEPING INSPECTION PROCEDURE

1. Housekeeping Inspections will be completed semi-annually; more frequently for families that fail inspections.
2. SHA will provide written notification to the head of household at least two-days in advance (standard) or one week in advance of the scheduled inspection date.
3. After the initial inspection is completed, SHA will verbally inform the head of household or other designated household member if he/she passed or failed. If the family failed the inspection, the SHA will immediately provide the family with a copy of the inspection and the SHA's "Planning Your Housework" packet.
4. Within one week of the initial inspection, the SHA will issue a formal letter to the family indicating if s/he failed. The SHA will also advise the tenant of specific corrections required to establish compliance and require the tenant to participate in a housekeeping training class.
 - The first class will be offered as a videotaped training class held at the SHA's main office, or other location designated by the SHA.
 - After the first class, families will be provided a five-day notice of a second inspection.
5. If the family does not attend the video training class, SHA will reschedule another time for the family to attend. If the tenant fails to attend the rescheduled class, the SHA will notify the tenant in writing that they are in violation of the SHA lease agreement and issue a 30-day non-curable lease termination.
6. Families that fail the second housekeeping inspection will be required to participate in a *hands-on* interactive training program offered by the SHA or a SHA partner organization. After the completion of the class, the SHA will provide the family a five-day notice of the third inspection date.
 - If the family does not attend the *hands-on* interactive training, SHA will re-schedule another time for the tenant to attend the training. If the tenant fails to attend the re-scheduled training, they will be notified in writing that they are in violation of the SHA lease agreement and will receive a 30-day non-curable lease termination.
7. Families that fail the third inspection will be in violation of the SHA rental agreement and will receive a 30-day non-curable lease termination.

Grievance Policy [24 CFR Part 966 Subpart B]

Tenants have the right to a hearing (See *Chapter 15 – Grievance Policy*). The resident shall submit written request for a hearing to the SHA or the development office within ten (10) days from the date of the mailing of the summary of the discussion pursuant to Section C, Chapter 15 - Grievance Policy. The written request must specify:

- The reasons for the grievance; and
- The action or relief sought.

Housekeeping Training

Video training classes will be offered at:

- New Admission
- Annual Recertification
- As-Needed

18-II.B. HOUSEKEEPING FORMS

Following forms will be used in conducting housekeeping inspections:

- Tenant/Application Certification
- Housekeeping Summary
- Housekeeping Inspection of Dwelling Unit
- Determination of Substandard Housing
- Home Inspection Information Verification
- Housekeeping Checklist

Go to Next Page to Access Forms

Tenant/Applicant Certification

I understand that my signature grants the SHA the right to inspect where I currently live, and to use the results of the housekeeping inspection as part of its overall evaluation of my suitability for continued occupancy of my public housing dwelling unit.

I further understand that I may be required to participate in a housekeeping workshop as a condition of initial admission and/or continued occupancy of public housing.

Printed Name of Family Head or /Co-Head

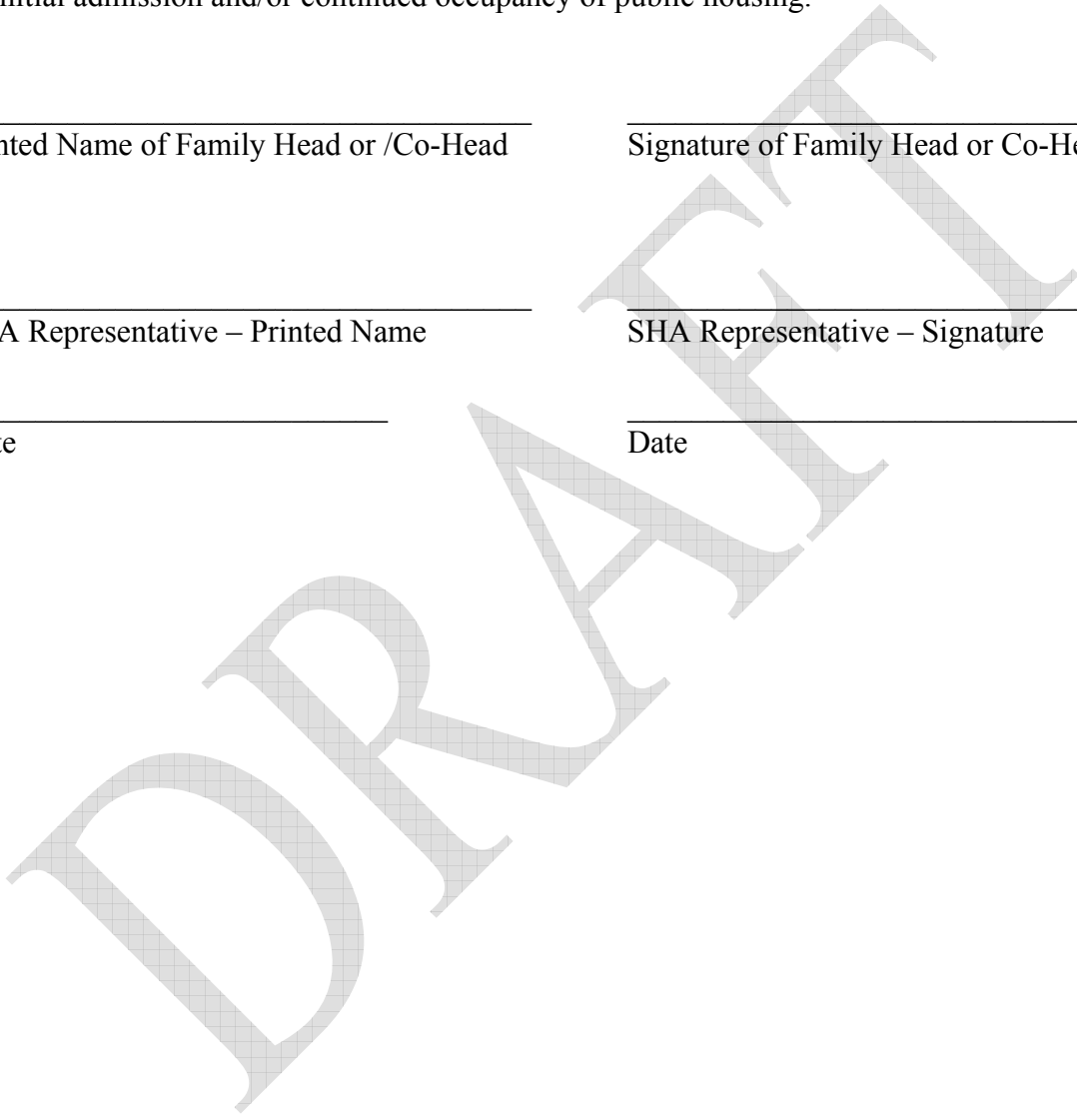
Signature of Family Head or Co-Head

SHA Representative – Printed Name

SHA Representative – Signature

Date

Date



Housekeeping Summary:

Lined area for handwritten notes, containing a large diagonal 'DRAFT' watermark.

**SANFORD HOUSING AUTHORITY
DETERMINATION OF SUBSTANDARD HOUSING**

Tenant(s) Name: _____

Unit Address: _____

Please mark the appropriate space:

_____ He/she is living in housing that is substandard because it is dilapidated.
(Please describe)

- _____ Does not have operable indoor plumbing.
- _____ Does not have a usable flush toilet inside the unit for the exclusive use of the family.
- _____ Does not have a usable bathtub or shower inside unit for the sole use of the family.
- _____ Does not have electricity or has inadequate or unsafe electrical service.
- _____ Does not have safe or adequate source of heat.
- _____ Does not have a kitchen (but should).
- _____ Has been declared unfit for habitation by any agency or unit of government.
- _____ He/she lacks a fixed, regular and adequate nighttime residence.
- _____ The primary nighttime resident is: _____.
- _____ Other:

General Comments:

**SANFORD HOUSING AUTHORITY
HOME INSPECTION INFORMATION VERIFICATION**

Name(s) of Family Members	Age
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.
6.	6.
7.	7.
8.	8.
9.	9.
10.	10.

**SANFORD HOUSING AUTHORITY
HOUSEKEEPING CHECKLIST**

Name of Head of Household: _____

Unit Address: _____

ITEM	EXCELLENT	SATISFACTORY	UNSATISFACTORY
Porch, Steps & Public Hallway	<input type="checkbox"/> Scrubbed clean, writing & drawings absent from walls, cobwebs removed, free of spilled food, garbage, trash & dust. Nothing Stored.	<input type="checkbox"/> Broom clean, free of food & drink spills, cobwebs removed. Free of garbage & trash.	<input type="checkbox"/> Not swept, spilled food or drink, broken glass, accumulated dirt, spilled garbage or trash, various items stored, walls with writing, cobwebs.
Walls, Ceiling & Trim	<input type="checkbox"/> Washed clean, no grease around stove, free of cobwebs.	<input type="checkbox"/> Slight grease splashes, may have been washed 2 or 3 months ago.	<input type="checkbox"/> Accumulated grease around stove & sink, accumulated hand dirt on walls.
Floors	<input type="checkbox"/> Cleaned and polished, wax & stains removed.	<input type="checkbox"/> Clean, old wax & stains removed.	<input type="checkbox"/> Not scrubbed; accumulated dirt, build up of old dirt.
Windows	<input type="checkbox"/> Glass recently washed, clean curtains shades or blinds in good repair.	<input type="checkbox"/> Glass washed in past 3 months or so, clean curtains, free of torn shades or blinds.	<input type="checkbox"/> Glass extremely dirty, curtains dirty & torn; shades & blinds tattered & frayed.
Refrigerator	<input type="checkbox"/> Clean & polished outside, defrosted, fresh odor inside, free of old spoiled foods or spills.	<input type="checkbox"/> Washed clean outside, defrosted, free of food spills and old food.	<input type="checkbox"/> Dirty or greasy outside; un-leaned food spills, accumulated frost & ice on freezer, stale odor and/or old food.
Kitchen Range	<input type="checkbox"/> Top, under-burners, oven & broiler clean & free of grease.	<input type="checkbox"/> Top, under-burner, oven & broiler reasonably clean; no accumulation of hard grease.	<input type="checkbox"/> Top and/under-burners, oven or broiler full of food spills, accumulations of hard old grease.

- Page 1 of 2 -

**SANFORD HOUSING AUTHORITY
HOUSEKEEPING CHECKLIST**

Name of Head of Household: _____

Unit Address: _____

ITEM	EXCELLENT	SATISFACTORY	UNSATISFACTORY
Water Heater	<input type="checkbox"/> Washed clean & polished, no debris nearby.	<input type="checkbox"/> Clean; free of grease, some minor debris nearby.	<input type="checkbox"/> Not washed; has an accumulation of dirt, grease, and/or debris
Work Table, Cabinets & Shelves	<input type="checkbox"/> Clean inside & outside, free of roach odor & roaches.	<input type="checkbox"/> Clean & free of roaches & roach odor.	<input type="checkbox"/> Not washed; has an accumulation of dirt, grease and/or debris.
Kitchen Sink, Bathroom Fixtures	<input type="checkbox"/> Gleaming clean, free of dirt & stains. No lime scale in toilet bowl.	<input type="checkbox"/> Clean, free of stains, no lime scale in toilet bowl.	<input type="checkbox"/> Accumulated dirt, grease & stains, lime scale in toilet bowl.
Vermin Control	<input type="checkbox"/> Free of any signs of roaches, past or present.	<input type="checkbox"/> Free of roach deposits & odor, evidence of minor infestation problem.	<input type="checkbox"/> Evidence of severe roach/vermin infestation.
Storage of Hazardous Materials	<input type="checkbox"/> Fire escape free of objects, no EXITS blocked, no interior litter/debris.	<input type="checkbox"/> Fire escape free of objects, no EXITS blocked, some minor accumulation of litter/debris.	<input type="checkbox"/> Objects on fire escape, excess litter/debris,; EXITS blocked, excessive grease on range/
Refuse Control	<input type="checkbox"/> Has large garbage can with tight fitting cover. Clean & lined with a plastic bag.	<input type="checkbox"/> Has garbage can with tight fitting cover, clean, has no odor.	<input type="checkbox"/> Does not have a large garbage can or can does not have a cover; can is not clean, has a bad odor.
Yard	<input type="checkbox"/> Grass recently cut, yard clean, free of trash, broken glass, etc.	<input type="checkbox"/> Grass not cut, yard relatively clean & free of trash & broken glass.	<input type="checkbox"/> Grass not cut, accumulated trash & broken glass, etc.
Clutter	<input type="checkbox"/> No accumulation of boxes, magazines, clothes, etc. that would pose a potential hazard.	<input type="checkbox"/> Minor level of accumulation poses very low risk of potential hazard.	<input type="checkbox"/> Excessive accumulation, which poses high risk of potential hazard.

Chapter 19

TOWING AND PARKING POLICY

[24 CFR 966.4]

INTRODUCTION

The following procedures are to be followed regarding towing and parking of any motor vehicle on SHA premises:

19-I.A. TOWING SIGNS AT SHA/VISITORS PARKING

Signs posted throughout SHA communities shall give notice that decals (see below) are required for all vehicles parked for more than three (3) business days on SHA premises. The signs shall state that vehicles without decals are subject to being towed if they have been parked on SHA premises for more than three (3) business days. The towing signs shall also contain the name, phone number and address of the towing company.

Designated visitor parking may be provided by SHA at all developments at the discretion of the Executive Director.

19-I.B. DECALS

SHA shall issue a decal without charge to each tenant who requests a decal for any vehicles to be used by a tenant on SHA property. The decal shall be affixed by the tenant to the rear of the vehicle. The decal shall be numbered and cross-referenced by tenant name and address. The decal itself shall be discreet and not contain the words “**Sanford Housing Authority**”.

Upon adoption of this Policy, each tenant shall be required to immediately bring a current vehicle registration, as well as all identifying data for the vehicle(s), to the SHA office. In the case where the tenant is not the registered owner of the vehicle, the tenant shall obtain a written statement from the registered owner that states that the owner (Exhibit “A” of the Consent Decree) gives his/her permission for the tenant to use the vehicle. All new tenants, upon acceptance of their admission to SHA, shall also provide the required information regarding any vehicle they will be using on SHA premises.

Thereafter, when the tenant uses any other vehicle on SHA premises, the tenant shall provide SHA with the documents described in the preceding paragraph.

19-I.C. VIOLATIONS

Violations are defined to include:

1. Any vehicle posing a clear safety or health hazard to the public;
2. Any vehicle not bearing a license plate or current registration;
3. Any vehicle in the obvious state of disrepair that has not been moved in seven days;

4. Any vehicle parked on SHA property for a period greater than (3) business days without SHA decal.

19-I.D. HAZARDOUS VEHICLES

When a vehicle poses a clear safety or health hazard, immediate removal by towing is justified.

SHA shall provide post-towing notice to registered owner by certified mail or hand delivered which informs the owner of an opportunity for a hearing. The notice shall be sent within 24 hours of the towing to the registered owner of the vehicle and state that the owner is entitled to request a hearing to dispute the validity of the towing and determine liability for towing and storage charges.

- Further, the notice shall state the consequences of a failure to request a hearing, i.e., that the motor vehicle will be sold to satisfy towing and storage charges after 35 days from the date of the notice if the towing and storage charges are not paid within that period.
- The hearing shall be held within forty-eight business hours of receiving the owner's oral or written request for a hearing. Upon an oral request for a hearing, SHA shall provide a simplified form to the tenant, which reduces the oral request for a hearing to writing.
- Unless the hearing officer finds that SHA has sustained its burden of probable cause to demonstrate that the motor vehicle was a clear safety or health hazard at the time of towing, the motor vehicle shall be returned to its owner or his representative at no charge.

19-I.E. TENANT EDUCATION ON TOWING/PARKING POLICY

1. A copy of the SHA Towing/Parking Policy shall be reviewed by SHA staff with each tenant, signed by each tenant and inserted in their tenant file.
2. Staff shall make a reasonable effort to publicize the contents of the SHA Towing/Parking Policy by permanently posting a copy of this policy at all public areas on SHA premises.
3. Regular tenant education meetings may be held by SHA staff to inform tenants of the Towing/Parking Policy and to answer questions regarding compliance with the policy. Education about the policy shall also be included as part of new tenant orientation.
4. Notice of the requirement for decals on vehicles used by tenants shall be included in tenant lease or in other appropriate documents signed at re-certification or acceptance of any new tenants.

19-I.F. LEASE

Section IX, (v) of the SHA Lease states "tenant should be obligated to refrain from parking any vehicle in any right of way or fire lane or on grass or sidewalks or other "no parking" areas. Automobile repairs and car washing are not permitted on SHA property."

19-I.G. UNLICENSED VEHICLES

SHA is under no obligation to allow vehicles that are without proper licensure or with expired tags to remain on SHA property. SHA will tow these vehicles without notice, at the owner's expense. In the instance where a vehicle poses a health and safety hazard, these vehicles will be towed with 24-hours at the owner's expense.

19-I.H. INOPERATIVE VEHICLES

No inoperative vehicles (i.e., vehicles with flat tires or on tire blocks) are allowed in any SHA property. SHA shall notify residents (if known) in writing of such violation by affixing a three-day (3-day) notice on any such vehicle located within the complex. If the violation is not corrected at the expiration of three days, arrangements shall be made for the vehicle to be towed at the owner's expense. The head of household shall be charged by the SHA \$15.00 for the first offense, \$30.00 for the second offense, and \$45.00 for the third offense. Continuous offenses by the resident or members of a resident's household or guests may result in the manager serving the head of household with a notice of eviction.

19-I.I. PARKING

SHA does not have assigned parking. All vehicles must be parked in authorized parking areas only. Unless approved by SHA, the parking of house trailers, recreational or commercial vehicles in or around the property is strictly prohibited. Resident/guest vehicles that are parked too close to SHA dumpster, and that obstruct garbage collection, will be towed at the owner's expense in accordance with Exhibit "A" of the Consent Decree.

Parking or driving on the grass is prohibited. Residents found driving on grass will be ticketed and the head of household shall be charged by the SHA \$15.00 for the first offense, \$30 for the second offense, and \$45.00 for the third offense. Continuous offenses by the resident or members of the resident's household or guests may result in the manger serving the head of household with a notice of eviction.

PSystems

Consultants, Planners, and Trainers

August 20, 2009

Mr. Angel Tua, Executive Director
Sanford Housing Authority
94 Castle Brewer Court
Sanford, FL 32771

Dear Mr. Tua:

This is a follow-up to my letter of July 28th, in which I laid out possible responses to Patti Lane's primary concerns regarding the SHA's Designated Housing Plan. To the responses contained in that letter, I would like to add that the proposed ACOP has a Working Preference for selection to the SHA's General Occupancy developments. As you know, the working preference is automatically given to any family whose head or spouse is elderly or disabled. Therefore, non-elderly disabled persons have the same priority (Number One) priority as working families for admission to your general occupancy developments.

The following is an excerpt from the draft ACOP:

The SHA will use the following local preferences:

1. ***Working Preference 1 (100 points)*** - *In order to bring higher income families with an extensive work history into public housing, the SHA has established a first-tier preference for "working" families, where the head, spouse, co-head, or sole member has been employed at least 32 hours per week for the prior 36 months. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities, will also be given the benefit of the working preference [24 CFR 960.206(b)(2)].*

I hope this information provides the definitive element of your response to HUD's concerns regarding the Designation Plan when you resubmit your plan. Feel free to contact me if you have any questions.

Sincerely,



Juan A. Patterson, Owner
PSYSTEMS