



## Notice

**June 20, 2023**

**TO: All Bethlehem Housing Authority Residents**

**RE: Revised Admission and Continued Occupancy Policy Concerning Over-Income Families/Limits**

Written comments from residents are solicited regarding the proposed Admission and Continued Occupancy Policy (ACOP). From the date of this notice, residents, residents' organizations, and the public are hereby given 30 days to present written comments on the proposed Policy. Copies of the Policy are available for review at the Family Development Office, 1429 Fritz Drive, Bethlehem, PA, and Central Highrise Operations Office, 645 Main Street.

**Comments should be addressed no later than July 20, 2023, to:** Mr. John Ritter, Executive Director, Bethlehem Housing Authority, 645 Main Street, Bethlehem, PA 18018. Written comments will be considered by BHA before formal adoption of the Policy.

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## AVISO

**20 de Junio del 2023**

**PARA: Todos Residentes De Bethlehem Housing Authority**

**TEMA: Política de Admisión y Ocupación Continua Con Respecto a Familias Con Mayores Ingresos/ Límites**

Se solicitan comentarios por escrito de los residentes con respecto a la propuesta de la Política de Admisión y Ocupación Continua (ACOP). A partir de la fecha de este aviso, los residentes, las organizaciones de residentes y el público tienen 30 días para presentar comentarios por escrito sobre la Política propuesta. Las copias de la Política están disponibles para su revisión en la Oficina de Desarrollo Familiar, 1429 Fritz Drive, Bethlehem, PA y la Oficina Central de Operaciones de Highrise, 645 Main Street, Bethlehem, PA.

**Los comentarios deben dirigirse no mas tarde de el 20 de julio del 2023 a:** Sr. John Ritter, Director Ejecutivo, Bethlehem Housing Authority, 645 Main Street, Bethlehem, PA 18018. Los comentarios por escrito serán considerados por BHA antes de la adopción formal de la Política.

**Bethlehem Housing Authority**

  
**John Ritter**

**Executive Director**

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## Chapter 13

### LEASE TERMINATIONS

#### INTRODUCTION

Either party in a lease agreement may terminate the lease under certain circumstances. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. The PHA 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 a PHA can terminate a family's lease, and give PHAs authority to determine other reasons.

When determining PHA policy on terminations, state and local landlord-tenant laws must be considered, since such laws could vary from one location to another. These variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern both the family's and PHA'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 PHA places upon families who wish to terminate their lease.

Part II: Termination by PHA - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by the PHA occurs. This part also includes nonrenewal of the lease for noncompliance with community service requirements, and over-income families for 24 consecutive months.

Part III: Termination by PHA – Other Authorized Reasons. This part describes the PHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires the PHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the PHA has full discretion whether to consider the options as just cause to terminate as long as the PHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the PHA may consider in lieu of termination, and the criteria the PHA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

### **13-II.E. FAILURE TO ACCEPT THE PHA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]**

The PHA must terminate the lease if the family fails to accept the PHA's offer of a lease revision to an existing lease, provided the PHA has done the following:

- The revision is on a form adopted by the PHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The PHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The PHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to PHA policies for offering lease revisions.

### **13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]**

The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

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 PHA is prohibited from renewing the lease at the end of the 12 month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

### **13-II.H. OVER-INCOME FAMILIES FOR 24 CONSECUTIVE MONTHS.**

In accordance with the regulations at 24 CFR 960.507 (d), PHA shall terminate the lease if a family's income has exceeded the over-income limit for 24 consecutive months (24-month grace period).

PHA will provide notice to the family once they have determined the family has exceeded the over-income limit for 24 consecutive months. PHA will terminate the lease within six (6) months of this notice.

Families may request an interim recertification during the period between notice and termination; however, decreases in income during this period will not forestall the family's termination.

Refer to Chapter 9 Over-Income Families for additional details on requirement for the notifying, tracking, and recertifying over-income families during the 24-month grace period. You may also refer to Chapter 6.

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## PART III: CALCULATING RENT

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

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

#### **TTP Formula [24 CFR 5.628]**

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

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA

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

#### ***Welfare Rent [24 CFR 5.628]***

##### PHA Policy

Welfare rent does not apply in this locality.

#### ***Minimum Rent [24 CFR 5.630]***

##### PHA Policy

The minimum rent for this locality is \$50.

#### **Rent Options for Over-Income Families (OI Families):**

According to HUD Notice – PHI-2023-03 (HA), Families exceeding the over-income limit will be offered the option of paying an income-based rent or the PHA's flat rent throughout the 24-month grace period and prior to termination.

For more information on the grace period and termination of over-income families refer to Chapter 9 Reexamination - Over-Income Families and Chapter 13 Lease Termination Part II - Over-Income Families for 24 Consecutive Months Requirement.

## 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 PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

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

Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA 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 payments. Also included here are flat rents and the family's choice in rent, along with rent options for over-income families.

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## **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 annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(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.

This part contains the PHA's policies for conducting reexaminations of families who choose to pay flat rents.

### **9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION**

#### **Frequency of Reexamination**

##### PHA Policy

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

#### **Reexamination Policies**

##### PHA Policy

In conducting full reexaminations for families paying flat rents, the PHA 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. Over-income Families/Limits**

The following provisions implementing HOTMA Section 103 was effective on March 16, 2023, 30 days after the publication of the final rule. PHA will begin to implement the Over-Income Policy upon revising its ACOP.

An over-income family is defined as a family with an annual income which exceeds the over-income limit.

The over-income limit is calculated by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603 (b), by a factor of 2.4. If the family's income has exceeded the over-income limit for 24 consecutive months, PHA will terminate the family in

accordance with the regulation at 24 CFR 960.507(d). Refer to HUD PIH-2022-2023-03 (HA) Appendix 1 on How to Process an Over-income Family.

Families participating in the FSS Program who become over-income are also entitled to the 24 consecutive months grace period, after which they are subject to their respective PHA's over-income policy. There are no exceptions to the income limitation on public housing program participation.

At a regular or interim reexamination, if a family's annual income exceeds the applicable over-income limit, PHA will document the family file and begin tracking the family's over-income status. At this time, PHA will notify the family in writing within 30 days of examination, that they have been determined to be over-income and that if they continue to be over-income for 24 consecutive months (24-month grace period), the family will be terminated. The initial notice will also inform the family that they may request a grievance hearing if they dispute the determination that they are over-income within a reasonable timeframe of 15 days.

A family who is over-income will be placed on an annual reexamination frequency beginning with the first regular or interim recertification in which the family exceeds the over-income limit.

During the 24 consecutive months grace period, and the period before tenancy termination, the family will continue to be a public housing program participant. The family will continue to:

- Pay their current rent choice amount of – income-based or flat rent, or the pro-rated rent for mixed families.
- Follow all programs requirements including the Community Service Activities.
- Maintain all rights of the public housing program participants.

The PHA will conduct an income examination 12 months after the initial over-income determination, unless it was already determined that the family's income fell below the over-income limit.

If the family's annual income continues to exceed the applicable over-income limit for 12 consecutive months, PHA will notify the family, in writing within 30 days of examination, that their income continues to exceed the over-income limit. This second notice will also inform the family that if their income exceeds the over-income limit for an additional 12 months, the family will be terminated. This notice will again inform the family that they may request a grievance hearing if they dispute the determination that they are over-income.

If an over-income family experiences a decrease in income during the 24-month grace period, the family may request in interim redetermination of rent in accordance with the PHA Policy. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-come provisions as of the effective date of the recertification. In such instances, PHA will notify the family in writing that over-income policies no longer apply to them. If the family's income later exceeds the over-income limit again, the family will be entitled to a new 24-month grace period.

The PHA will conduct an income examination 24 months after the initial over-income determination, unless it was already determined that the family's income fell below the over-income limit.

If PHA determines that the family's income has exceeded the applicable over-income limit for 24 consecutive months, PHA will notify the family in writing within 30 days of examination.

The notice will state that the family will be terminated within six (6) months. This third and final notice will again inform the family that they may request a grievance hearing if they dispute the determination that they are over-income. As with the prior notices, this notice will inform the family of their opportunity to dispute PHA's determination that they have exceeded the over-income limit in accordance with the regulation at 24 CFR 960.507(c)(3)(iii).

Reexamination after the third notice cannot allow the family to remain in the public housing program beyond the period termination.

During the period between this notice and termination, the family will continue to pay either income-based or flat rent. The PHA must continue to charge the family their public housing rent during the period prior to termination.

**Note:** The family is permitted to request an interim re-examination during the period between the final notice and termination. However, the interim reexamination will not enable the family to avoid termination after the 24-month grace period has elapsed; PHA will proceed with termination regardless of whether the interim reexamination may be due to loss of income. Refer to reference of Over-Income Families in Chapter 6 and Chapter 13

Termination must occur no more than six (6) months after the third notice. The PHA must give appropriate notice of lease tenancy termination, or notice to vacate, per state and local laws.

Families are public housing program participants until the tenancy is terminated by the PHA.

#### **Accessibility:**

All notices and communications will be provided in a manner that is effective for people with hearing, visual, and other disabilities. The following will be provided, FREE, upon request:

- Accommodation for vision impairments: Brailled materials, large print, or audio materials
- Accommodations for hearing impairments: Sign language or other interpretation, auxiliary aids, transcription services, and accessible electronic communications.

#### **Over-Income Families - Annual Reporting to HUD:**

The PHA must submit a report annually that specifies: The numbers of over-income families residing in a PHA's public housing as the end of the calendar year December 31<sup>st</sup>.

This report will be pulled by HUD via the form HUD-50058.

## **9-II.D. 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 PHA does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

### **Scheduling**

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

#### PHA Policy

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

In scheduling the annual update, the PHA 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)].

#### PHA Policy

Generally, all adults in the family will be required to attend an interview for an annual update.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the PHA. The family will have 10 business days to submit the required information to the PHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The PHA 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 PHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to the PHA.

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.